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IN THE MATTER of the Public Inquiries Act,
R.S.A. 1970 C.296 and amendments thereto

AND IN THE MATTER of the Public Inquiry by
A.M. Harradence, Q.C., pursuant to Order in
Council 1295/73 dated August 21, 1973 into
the alleged use of excessive force by
Correctional Officers upon inmates of the
Calgary Correctional Institution during the
evening of July 17, 1973 and any other
similar instances.

PUBLIC INQUIRY

Proceedings taken in the Club Room at the
Jubilee Auditorium, Calgary, Alberta, com-
mencing on the 1st day of October A.D. 1973.

Volume XI

CA2ALZ 1

73A21

v.11

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J.P. Peacock, Esq.,	Appeared for the Commission
W.V. Stilwell, Esq.,	Appeared for the Alberta Civil Association and Assistant Deputy Warden Schlegel
G.R. Meurin, Esq.,	Appeared for Warden Jackson, Deputy Warden Stanton, Assistant Deputy Warden Merriam, Assistant Deputy Warden Elliot and Assist- and Deputy Warden McMeekin
K.R. Laycock, Esq.,	Appeared for the Inmates
R.W. Bourassa, Esq.,	Appeared for the John Howard Society
M.M. Hetherington (Mrs.),	Appeared for James David
S. Carscallen, Esq.,	Appeared for Murray Dale CKXL

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DEPOSITIONS TAKEN AT 10:00 A.M., NOVEMBER 1ST 1973

MR. LAYCOCK: Sir, my name is Keith Laycock. I am appearing for the inmates.

THE COMMISSIONER: Thank you.

MR. PEACOCK: Would you call Mr. Williams, please Mr. MacDonnell.

GORDON ARCHIE WILLIAMS, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Williams, you are employed at the Calgary Correctional Institution?

A That's right, sir.

Q And how long have you been employed there?

A 15 years, sir.

Q And what is your position there?

A CO3.

Q Were you on duty as a CO3 on July 17th, 1973?

A Not in the beginning. I come on duty the night of the 17th for the midnight shift on the 18th.

Q I see. When you came on duty that night do you recall becoming involved in any way in an incident involving four inmates returning from the Calgary Foothills Hospital?

A Yes, I do, sir.

Q Were you involved in any way in the sending of those inmates to the hospital?

A No, sir.

Q So your only involvement was on their return to the Institution. How did you become involved?

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A When I reported for duty approximately 11:15 on the night of the 17th, I was informed that there was four inmates down at the hospital and that they would be returning back at a certain time so we waited for a phone call to come in and to see what time they were coming back. The next thing we heard they were on their way back and we took up a position at the main entrance to possibly assist City Police which were bringing them back.

Q Now I gather two vans arrived, one was an Institution van and the other was a Police van?

A That's right, sir.

Q And the Police van contained these four inmates?

A That's right.

Q Did you assist in unloading these inmates from the van?

A I stood directly behind the van by a City Police officer as they were getting out of the van.

Q Now do you know the names of the four inmates who were involved?

A Bilsky, Cadieux, Poole and Gray.

Q Now could you tell the Commissioner what you observed as these four inmates were taken out of the van? What did you see that night?

A As a Police officer opened the door of the vehicle someone said "If you want us out, you come and get us". With that the officer that had opened the door called for another officer to bring the Police dog which I couldn't say how far back he was by this other vehicle

but he moved up to probably a position maybe 15 feet from the van. When they seen this was taking place, they started to climb out of the van.

Q Do you know which inmate was the first out of the van?

A No, I don't, sir.

Q Can you tell us what you observed?

A Three inmates come out of the van with no problem whatsoever. The fourth one by the name of Poole came out and as he was coming out he lunged, with his cuffs, he was cuffed on the front, at the officer standing there, at his throat.

Q Do you know was that a member of the prison staff or the Police Force?

A Calgary City Police Force.

Q And you say he lunged at this officer with his cuffs in front of him?

A That's right.

Q What occurred then?

A He bodily contacted the City Police Officer . Myself and other officers stepped in. Also, I believe another Police officer to try to restrain him.

Q What did you observe occur?

A He was restrained at the time and we moved him in a position and was taking him in the front entrance of the gaol.

Q Did you observe as he was proceeding - I take it there was a scuffle and he was brought under control, was there?

A Not too much of a scuffle. Grabbed hold of him and restrained him.

Q Did you see who grabbed ahold of him and restrained him?

A There was several officers and Police officers there. I couldn't rightfully say who they all were.

Q When this occurred did you see any of the prison staff strike Poole with any kind of an object?

A No, sir.

Q Did you watch or did you help escort Poole into the Institution?

A Yes, I did up to a point by the main entrance where there wasn't enough room for us all to go through the one door and I let them go ahead. I was in behind them.

Q As you were proceeding up the step and towards the front door, did you observe any prison official strike Poole with any kind of an object?

A No, sir.

Q You don't recall seeing Poole struck with anything?

A No, sir.

Q Did you, after Poole went through the door, did you follow this group down the hall towards the guard room?

A That's right, sir.

Q Did you observe any of the inmates around the guard room?

A Not that I can recall, sir, no.

Q Did you assist in removing any of these inmates down to the segregation area?

A No, I - the door was open. I went down the stairs, sir,

and there was several officers down there at the time and I came back up.

Q During the time from the time the van arrived until you came back up from the segregation area, did you see any guard strike any of the four inmates?

A No, sir.

Q Did you see any of the prison staff dragging any of the inmates by the hair?

A No.

Q Did you see during the scuffle with Poole, did you see the Police dog become involved?

A No, I did not, sir.

MR. PEACOCK: Those are all the questions I have. Would you answer other counsel, please.

MR. WILKINS: No questions, sir.

CROSS-EXAMINATION BY MR. LAYCOCK:

Q Mr. Williams, how many guards from the Correctional Institution was there present in the main entrance when the prisoners were being returned? Yourself and how many others?

A Possibly five. I wouldn't say for sure.

Q Is that normal practice?

A I would say so, yes.

Q Are you in any way armed or do you carry sticks?

A No, sir.

Q Billy sticks or anything like that?

A No, we were unarmed.

Q Were you on this incident?

A No, sir.

Q Was anybody else?

A I couldn't say, sir.

Q You say that the prisoners were at first reluctant to leave the van?

A That's right, sir.

Q And upon being threatened with the dog they then, three of the four left the van voluntarily?

A Right.

Q Where did they go then?

A Into the front entrance of the gaol, sir.

Q And they went in and there was still one prisoner remaining in the van?

A He was on his way out following the other three. Like I said previously, as he was coming out he made a lunge at the Police officer.

Q And was he struck back?

A Not to my knowledge, no, he was restrained.

Q He was restrained? How was he restrained?

A Held.

Q Just grabbed him. Did you haul him forcefully into the entrance then or did you just calm him down?

A No, we more or less guided him into the front entrance.

Q You just guided him?

A He was on his feet, sir.

Q There was no pushing and shoving involved?

A No, I wouldn't say so.

Q And you say nobody hit him at any time?

A No, sir.

Q Once he was inside the Institution and being taken to segregation, there was no pushing and shoving then either?

A No, Poole was taken into the guard room area of the gaol and he was put in an interview room there and I believe that was a request of the Warden.

Q Is it not true at this time there was evidence of a scar?

A Yes, I noticed on one side of his face, I couldn't tell you which side, a small trickle of blood on his cheekbone.

Q Was that as a result of the scuffle or was that present when he exited from the van?

A I never noticed it on his exit from the van, sir, I don't know.

Q So sometime during the scuffle there was a scar and blood on his face?

A The blood was on. I don't know if it was there when he come out of the van. I was only facing one side of him as he come out.

MR. LAYCOCK: I have no further questions.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: No questions.

THE COMMISSIONER: Mr. Williams, did you see Poole attacked by the dog?

A No, I did not, sir.

THE COMMISSIONER: How close were you to him when he lunged at the officer?

A Five, six feet.

THE COMMISSIONER: If the dog had attacked him, you would have seen it?

A I believe so but I recall at no time the dog attacking him.

THE COMMISSIONER: Is it your evidence -

A Possibly, sir, he did but I failed to notice it.

THE COMMISSIONER: If he did, you certainly didn't see it?

A I did not see it.

THE COMMISSIONER: Thank you very much.

MR. PEACOCK: Thank you, Mr. Williams.

(Witness retires).

JOHN SCHLEGEL, having been previously sworn, still under his former oath, re-examined by Mr. Peacock, testified as follows:

THE CLERK: You understand you are still under oath, sir?

A I do.

Q MR. PEACOCK: Mr. Schlegel, you were on duty at the Institution as Assistant Deputy Warden on July 17th, 1973?

A Yes.

Q Did you become involved in an incident involving the return of four inmates to the Institution from the hospital

that night?

A Only so far as I took one of them to the sick bay.

Q Could you tell which one that was?

A Inmate Poole.

Q Now did you become involved at all in the decision or in the physical moving of these inmates to the hospital?

A No, I didn't, no.

Q So your only involvement was when they returned to the Institution?

A Yes.

Q Did you become involved in any way in getting these inmates out of the van that brought them back from the hospital?

A No, no.

Q Did you observe the inmates being brought out of the van and into the Institution?

A No.

Q So your first involvement was with the Inmate Poole?

A Yes.

Q And where did you first become involved with him?

A Well, I was at the guard room and when Poole came to the guard room he mentioned or somebody mentioned that he had been bitten by a dog, something to that effect, so I was there and I says "Okay, Poole" and Mr. Merriam was with me, I said "The two of us will take you up to the nurse". Took him up to the nurse. The nurse gave him treatment for a cut on the eye, dog-bite and I took him from there down to the guardroom, left him

through the gates and there was some other officers there. They took over from there and put him down in the cell.

Q Did you become involved in any way in placing Inmate Bilsky and/or Gray in Segregation?

A Bilsky and not Gray.

Q Did you assist taking Bilsky down the stairs from the guard room down to the Segregation area?

A No, I was downstairs.

Q You were down there when he was brought down?

A Yes.

Q Did you observe who was bringing him down the stairs?

A At this time I can only say that I know that Mr. Merriam was there. Who the rest of the fellows were, I can't tell you.

Q Did you observe Bilsky coming down the stairs at all?

A No.

Q Just when he got in?

A When he was just about going through a gate and from there it would be around a corner into a cell. I was there when he was coming through this gate, the last gate.

Q When you saw him, how was he moving?

A He was being drug. He was off his feet.

Q He was off his feet?

A Yes, he was at that time.

Q How was he being dragged?

A Well, from what I can remember there was one on each side trying to take him through the gate. He was handcuffed, hands behind his back and they were trying to get him through.

Q Was he laying on the floor?

A Well, they were dragging him. Dragging him.

Q Were they dragging him by the hair?

A No, they had ahold of an arm as far as I know.

Q When they got him into the area where you were, did he get back onto his feet or did they drag him right into his cell?

A He was half getting up on his feet and half being drug. He was never fully on his feet.

Q Did you see any correction officers strike Bilsky from the time you saw him until the time he got into his cell?

A No.

Q You didn't see anybody strike him with a fist or a billy or a flashlight or anything like that?

A No.

Q Did you see them put him into the cell?

A Yes.

Q And the door was locked, he was left with his cuffs on for a while, was he?

A Just a very short while because we hadn't completed bringing everybody back. We went upstairs and I remember someone saying that Bilsky was saying the handcuffs are

hurting him. I know that I didn't go down but I know somebody went down and they took the cuffs off.

Q Now you didn't see Inmate Gray taken down?

A Gray was taken to the cell block. No, I don't know who took him.

Q And how about Cadieux?

A Cadieux, I was down with Cadieux.

Q Did you take him down the stairs?

A No, two other officers took him down.

Q You were down there when he got there?

A Yes, well, I went down after they did.

Q I see. So you proceeded down after he was down there?

A Yes.

Q Was he in his cell when you got there?

A No.

Q Was he walking?

A He was on his feet, yes.

Q Did you observe any prison officials strike him?

A No, Nobody struck him.

Q You saw him being put in his cell?

A Yes, I helped put him in.

Q Did you strike him?

A No.

Q Did you have any difficulty getting him in the cell?

A Yes, we did.

Q In what way?

A Well, he was, seemed to be fairly strong in that he was

handcuffed but the officers were having a heck of a job with him. It was dark down there and I don't think they exactly knew what cell he was going to go in or which one was empty. I think they were taking him down and then here the situation was where do we put him sort of thing and they were having a hell of a job with him and there was one cell open and I know I grabbed him by the left leg. Actually what I wanted to do was try and get him off his feet because they were having a heck of a job with him. The door was open and we gave him a shove in. In he went. It wasn't that big of a problem.

Q You then became involved with Poole. Was he in the guard room or in an interview room?

A In an interview room.

Q Did you see Warden Jackson there?

A Yes.

Q Talking to him?

A Yes.

Q And Mr. Merriam?

A Yes.

Q And after - was it after this discussion with Warden Jackson that you took Poole up to see the nurse?

A Yes.

Q On the way up did he advise you how he had sustained the injuries to his forehead?

A No, no, he didn't. I don't think he even knew he had

an injury there.

Q What kind of shape were these fellows in when you saw them?

A Well, he was in rough shape. Poole was in rough shape.

Q What do you mean by that?

A Well, he looked like he had a fair amount of that brew that they had been drinking because he was incoherent and he didn't really seem to know where he was, like, or what was happening sort of a thing, like, really what was taking place.

Q " You took him up to the nurse, Mrs. Turner?

A Yes.

Q Did he complain to Mrs. Turner at all about how he received this blow on the head or how he received the cut?

A No, he didn't seem to know how it happened. He mentioned the dog bite. Then when we sat him down, the nurse was looking at him and she noticed the cut on here, on the eyebrow. I didn't notice it actually until we got up and he sat down on the chair and then she put a bandaid on it or treated it and put a bandaid on it and treated the dog bite but he didn't seem to know what had happened.

Q Did you then take him down after his treatment?

A Yes.

Q Where did you put him?

A I just took him as far as the guard room, the first gate

that is open and I said "He is going down to the other side". There were some officers in the hallway there and I says "You fellows can look after him" and they said okay and that was it.

Q That was the last you saw of him?

A Yes.

MR. PEACOCK: Thanks, Mr. Schlegel,
those are all the questions I have. Answer other counsel.

MR. WILKINS: No questions.

CROSS-EXAMINATION BY MR. LAYCOCK:

Q Sir, as a result from the cut, what medical treatment did he receive for that? Did he need stitches?

A No.

Q Just a bandaid?

A The nurse remarked at that time something to the effect "It's not bad, you don't require stitches". She put a small bandaid on.

Q And that was his only apparent injury, other than the dog bite?

A Well, the dog bite.

Q Did that draw blood or was it just a -

A You could see a mark there.

Q You mentioned that he was incoherent at the time. How long had he been down at the Foothills Hospital?

A Now this I do not really know. I don't know when they went down. I was called later. I don't know when he went down.

Q Could he have been incoherent as a result of the blow?
Could that have effected him?

A Didn't look to me like much of a blow. I don't know.
You want my opinion? No, he wasn't incoherent on account
of a blow.

Q I take it that Mr. Bilsky was putting up a bit of a
fuss on being returned to the cells?

A Yes.

Q Did you notice any of the guards have flashlights in
their possession or billy sticks?

A No, I didn't.

Q They didn't?

A I didn't notice anybody having them.

Q Could they have had flashlights or billy sticks at the
time?

A I suppose they could have, I don't know.

Q When you are meeting returning prisoners, is it normal
practise that they have a billy stick?

A No.

Q Just in case something happens?

A No, it's not normal practise at all.

MR. LAYCOCK: That's all the questions
I have.

MR. MEURIN: No questions.

THE COMMISSIONER: Thank you very much, Mr.
Schlegel.

MR. PEACOCK: Thanks, Mr. Schlegel.

A Okay, sir.

(Witness retires).

MR. PEACOCK:

Call Mrs. Turner, please.

MRS. VERNE L. TURNER, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mrs. Turner, you are employed at the Calgary Correctional Institution, is that correct?

A That's right.

Q And what is your official capacity there?

A I am the resident registered nurse.

Q And how long have you worked there?

A It's past seven years.

Q On the night of July 17th, 1973, did you have occasion to treat an inmate by the name of Gerald Poole?

A I did.

Q Were you on duty at that time?

A No, I wasn't. I am on call 24 hours if I am not on days off.

Q And you were called onto duty that night, were you?

A That's right.

Q And what did you first observe in relation to this Inmate Poole?

A His injuries?

Q No, did he come up to your office first or did you see him down -

A Yes, he was escorted up to MIR. I came out of my suite.

They notified me that they wanted me out. Then I went to the Medical Inspection and they escorted Poole up to see me.

Q Did you observe his condition at that time?

A I did.

Q What was his condition?

A Well, his injuries.

Q Yes. What did you observe about him? For instance, was he drunk?

A Yes, I would say he was. He was staggering.

Q And what injuries did you observe?

A He had a small laceration in his right brow that was actually in the brow. It was, oh, less than a half an inch and fairly superficial.

THE COMMISSIONER: Fairly what?

A Superficial.

Q MR. PEACOCK: And what other injuries did he have?

A And he had bruising and an abrasion on his abdomen starting about center abdomen and over to the right.

Q And were you able to tell how that abrasion and bruising had occurred?

A I presumed it was a bite or -

Q It was consistent with being a dog bite?

A Yes, but not really a bite because I feel that a bite is a penetration and this was really not penetration.

Q Did Mr. Poole indicate while you were treating him for these injuries how he had suffered this cut on his

forehead?

A Mr. Poole wasn't really that coherent. He didn't tell me anything and I didn't inquire.

Q Did he tell you how he suffered this injury on his abdomen area?

A No, he didn't.

Q I take it you treated these injuries? What did you do?

A The one on his brow I cleansed and just drew together with tape. It really didn't require a suture. I pulled it together with tape and usually in 36 hours or so they are closed enough that they are - and his abdomen I painted with metaphen.

Q Did you bandage it as well?

A Oh, no. it wasn't a bandaging thing at all.

Q When you were finished I take it he was then escorted out of your presence?

A That's right.

Q Did you treat any other inmates, in particular, Bilsky, Cadieux and Gray that evening?

A Poole was the only man that I saw that evening.

Q Do you recall within a day or so after that treating any of the others that I have just mentioned?

A On the 20th, I think it was the 20th, it was a Friday which was the doctor's visit, Poole and Bilsky were brought up to see the doctor and the doctor looked at their abrasions and wounds and just satisfied himself that they were doing as - healing well.

Q Had you treated Bilsky between the 17th and the 20th for

any injuries?

A No, I did not.

Q Do you recall what injuries Bilsky had?

A The day he saw the doctor he had an abrasion on his knee and he had the same type of wound on his buttocks, a bite or scraping.

Q Looked like the same dog?

A I didn't examine its dentures or anything.

MR. PEACOCK: Those are all the questions I have, thanks, Mrs. Turner.

THE COMMISSIONER: We better call Dr. Hepburn. Thank you very much.

MR. WILKINS: No questions.

MR. PEACOCK: Thank you, Mrs. Turner.
(Witness retires).

MR. PEACOCK: I would like to call Warden Jackson, please.

THE COMMISSIONER: I will have to correct that, Mr. Peacock, I meant Dr. Swan.

JAMES FRANCIS JACKSON, having been previously sworn, still under his former oath, re-examined by Mr. Peacock, testified as follows:

THE CLERK: Mr. Jackson, you have been previously sworn?

A Yes, sir, I am still under oath.

Q MR. PEACOCK: Warden Jackson, on July 17th, 1973, did you become involved in an incident involving the return of Inmates Poole, Cadieux, Bilsky and Gray

to the Institution from the Calgary Foothills Hospital?

A I became involved insofar as I was a bystander as to what was going on but I was called to the Institution at approximately quarter past eleven in the evening and advised, and I can't tell you who called me but I was called, I left home, I got there about 11:30. They were then expecting four men back from the hospital. I got some detail as to what had happened at that point that they had been taken to the hospital suspected of having drunk a quantity of home brew and I believe the officers of the Institution were somewhat concerned that the brew might have been more harmful than brew. That was why they were taken to the hospital.

Q Did you observe these inmates being unloaded from the van when they returned to the Institution?

A Yes, sir, from some distance but I could observe certain activities.

Q Did you observe during the removal of these prisoners until they were brought into the Institution, did you observe any of the Correction staff strike any of them?

A No, sir.

Q Did you have occasion to talk to any of the four inmates after they were brought into the Institution?

A Yes, sir.

Q Which ones?

A To Poole only.

Q Did you see Bilsky, Cadieux or Gray after they were brought in to the Institution?

A They came in in quick succession from the van, the first three, and they were moved in pretty rapidly into the Institution. I remained at the point where I was.

Q Where was that?

A Immediately inside the main doorway. There are two doors and I was inside the second door. I could see what was going on in my direct line of vision.

Q Did you see Mr. Cater there?

A I saw him there at some part of the incident. There were other people there too.

Q Do you recall seeing Mr. Cater swing at any inmate?

A No, sir, I do not.

Q In particular, Inmate Poole?

A No, sir.

Q I take it that you had this discussion in an Interview Room near the guard room, is that correct?

A Yes.

Q And did you request the discussion or did Poole or how -

A I understood from, I believe it was Assistant Deputy Warden Merriam that Poole wanted to see me.

Q And you then met him in an interview room?

A I went to the interview room after the other men had been removed. They had by this time been placed in their locations.

Q Did Poole advise you why he wanted to see you?

A Yes.

Q And can you advise us?

A Well, I believe, sir, that I may be involving other members of the staff at this point and it might involve Poole in difficulties.

Q All right, let me ask you this, Warden Jackson, was the discussion that you had with Poole concerning how the home brew came into existence?

A Exactly.

Q Did you discuss at all with him any of the incidents that had happened that night?

A No, sir.

Q Did Poole at that time complain to you that he had been struck on the head?

A No, sir, he had a cut. It looked to me like a graze more than a cut over his - in his right eyebrow. I saw that myself.

Q Did he advise you how that had occurred?

A No, sir, he didn't.

Q Did he advise you that he had been bitten by a dog?

A I saw the incident at the door. I don't know whether the dog bit him or not but I did see what happened, at least from what I saw.

Q I gather, therefore, that your discussion with Poole was centered around trying to find out how the home brew got there?

A It was very brief, sir, and it was not prolonged.

Q It didn't relate to what had happened with respect to being outside the van?

A No, sir.

MR. PEACOCK:

Those are all the questions

I have. Answer other counsel, please.

CROSS-EXAMINATION BY MR. LAYCOCK:

Q Sir, did Poole appear to you to be groggy at this time when you talked to him?

A I saw Poole coming in the main door, sir, and he was, I will say, very unsteady on his feet. His face was pale and drawn. His eyes were bleary. I noticed that about him. I also noticed that he was swinging his cuffed arms as he came out into the light, which was the light from the door and it was at that point I saw a Police sergeant move in. I recognized his stripes and I saw the dog move in on the left side of him but where the dog moved into, I don't know but I saw the dog move forward.

Q In the scuffle that occurred at that point is it not possible that he might have been struck and you wouldn't have been able to observe it?

A I would only be presuming on that. I couldn't answer, say yes or no to that.

Q So he was groggy when he left the van before he was in the scuffle with -

A I would say he was under the influence of alcohol. He was still unsteady on his feet.

Q Could it be that he fell out of the van rather than lunged out?

A He didn't fall out of the van, sir. I saw him come out. I saw him swinging as he came out.

Q But he was groggy?

A When he came into the hallway he was groggy and the reason why I noticed particularly was I had never seen Poole in that state before. I had never seen Poole in what I considered to be a violent mood before.

Q Was his speech somewhat slurred?

A Somewhat, yes.

Q And he was unsteady on his feet?

A Somewhat, yes.

Q And you are quite positive that it couldn't have been that he tripped or otherwise involuntarily came out of the van?

A In my opinion, no.

Q And he did forcibly swing at the correctional officers?

A No, he was swinging anywhere. He wasn't swinging at a correctional officer. He was swinging anywhere.

Q Did he hit anybody?

A I couldn't tell you.

Q He was just flaying around?

A I couldn't tell you. There was a number of people closed in at that point. There was a lot of movement. There was a number of police officers and a number of my own staff and there was a great deal of concerted movement at that point.

Q Could it be that he was just slow in coming out of the van because he was under the influence?

A I don't think he was particularly slow.

Q He wasn't refusing to leave the van?

A He was getting out of the van. I don't know whether he was refusing or had refused. He was in the act of getting out of the van when I saw him.

Q Isn't it true that at one point he was refusing to come out of the van?

A I have heard that in evidence. I didn't hear him say that.

MR. LAYCOCK: That's fine. No further questions.

MR. MEURIN: No questions.

THE COMMISSIONER: Thank you, Warden.

A Thank you, sir.
(Witness retires).

MR. PEACOCK: Commissioner, that is the evidence that we propose to call with respect to this incident. As I advised yesterday there is another constable who became directly involved in the altercation at the hospital, Constable Krauss, who is not here for a week. I think all counsel have agreed that his evidence won't be necessary.

THE COMMISSIONER: Would he be back in a week?

MR. PEACOCK: I gather he will be, sir.

THE COMMISSIONER: Perhaps we could hear him then, if necessary.

MR. PEACOCK: Perhaps we could discuss it amongst counsel and determine if all counsel feel it is necessary.

THE COMMISSIONER: What about the Medical Orderly?

MR. PEACOCK: Perhaps we could adjourn and I could discuss that for a minute. We still haven't been able to determine who he is.

THE COMMISSIONER: Yes, the Chief Inspector apparently does know who he is. It is a question of getting hold of him.

MR. PEACOCK: There may be problems because I don't know where the Chief Inspector is. In any event, I wonder if we could adjourn for 10 minutes. We will prepare for the next incident. I think we should finish the evidence on that today.

THE COMMISSIONER: Ten minutes.

MR. PEACOCK. Thank you, sir.

(Inquiry adjourned for 10 minutes).

MR. PEACOCK: Call Wayne Collymore, please.

WAYNE ANTHONY COLLYMORE, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Collymore, could you speak up so we can all hear you, please. You are an inmate at the Calgary Correctional Institution?

A Yes, I am.

Q And how long have you been there?

A Approximately three months now.

Q And how long is your sentence?

A I am on remand.

Q You are on remand now?

A Yes.

Q Do you recall when you first went into the Institution?

A On August 21st or I think it was August 14th.

Q Now since you were in the Institution, did you have occasion on one day to get involved in an altercation with a fellow by the name of Andrews, a guard by the name of Andrews?

A Yes.

Q Would you tell us what happened that night?

A I was coming back from the movie in the gymnasium. I stopped in front of John Schimmens' cell and I was talking to him and he gave me some books and Bill Andrews pushed me into the cell and I put my hands up to stop me and I turned around and I pushed him back and when I pushed him back I said "Get your fucking hands off me, you pig" and when I did that he said something about a punk and he pushed me back on my chest so I struck the officer.

Q You struck him?

A Yes.

Q And where did you strike him?

A In the face.

Q Had you had problems with this officer before?

A Yes.

Q What kind of problems?

A Oh, he has been down, the night before he came down and he turned off the TV downstairs early.

THE COMMISSIONER: Turned off?

A The TV, television.

THE COMMISSIONER: Can you speak up just a bit Mr. Collymore.

A And when that happened we started bitching about it and he came back down and he turned it on after that and then he says "Collymore" he said "Before you have a say in this Institution is when you did enough time" and he says "You better smarten up or else" and then he said something to John about "I am not scared about you or nothing."

Q MR. PEACOCK: All right. Now you said that Mr. Andrews pushed you as you were going down to your cell after the movie and you pushed him back and he pushed you again and so you punched him in the face, did you?

A Well, I stopped in front of John Schimmens' cell to get some books and I was talking to him about the movie because he is not allowed to go to the movies so I stopped in front of his cell and I was speaking to him about the movie and he gave me some books. That's when the officer pushed me.

Q When you struck the officer, what happened?

A He fell down, he went down and he jumped back up and he says "John, what's the matter with him" he says "Stop him" and John says - I can't exactly quote what he did say but he said, he says "When you start pushing inmates around" he says "You have to pay the consequences".

Q And what happened then?

A Then he ran upstairs and he was calling for Mr. Williams

and Mr. Williams came down after with Mr. Cain and I, during that time when he was running upstairs I was kind of nervous and scared because I thought they were going to come down with a bunch of heavies, bunch of other guys, so John said "Go in your cell and rip the bar off" so I went in my cell and ripped the steel bar off the wall and then I just put it on the bench and when they came down, Mr. Williams was talking to me and he says "Come upstairs and so I can get a statement". I says no. He says "Come upstairs or we will have to tear-gas you" and we had an argument and John says "Nothing is going to happen to the kid" and Mr. Williams says "No, I give you my word. He is going to write a statement and come right back down" and then John says "Everything is okay, give him the pipe" so I threw the pipe down and I went upstairs to give a statement.

Q All right, did anything occur after that that night to you?

A No.

Q Have you ever been struck by a guard or a member of the staff of the prison?

A Struck with - what do you mean by struck?

Q Well, have you ever been hit by any of them?

A I have been pushed.

Q And this night that this altercation took place the only thing that Andrews did to you was push you in the hall, is that correct?

A And downstairs in Segregation.

Q This was all in the Segregation cells?

A Yes, we had an argument in the gym first of all when I went to see the movie because I wear glasses and I broke them and I sat in the back and I had an argument with him and I was speaking to a friend and there was another guy from Segregation went down and he started bitching to me saying that "You are not supposed to have contact with any of the inmates in here" and I got kind of hot because the guy that came down with me he was talking to his friends and I wasn't allowed to so I got hot.

Q Well, aside from these arguments that you had, have you ever received any physical blows or violence to you in the Institution?

A No. Once this big fat guard, he has been harassing me pretty bad.

Q Do you know who he is?

A No, I don't know him by name. He is a fat guard. I know he smokes a pipe.

Q When you say harassing you, what has he been doing to you?

A He has been calling me "nigger boy" and one time we were out in the yard and I called him a pig and it was in between when I was down in the cell during showers and coming back from lunch and he pushed me up against a wall and John he says "Get your hands", "Get your fucking hands off of him" and I was getting hot and John says "Don't bother about it. Don't do anything about it" so I left

it the way it was.

Q I see. All right, now that night that you and Mr. Andrews had this scuffle down in the Segregation cells, when the other guards came down, they calmed you down and that was the last of the incident, was it?

A You mean -

Q They took you upstairs, did they?

A Yes.

Q Nobody pushed you or hit you after that?

A No.

MR. PEACOCK: Those are all the questions I have. Answer other counsel, please.

CROSS-EXAMINATION BY MR. WILKINS:

Q Mr. Collymore, were you a friend of Mr. Schimmens?

A Yes.

Q I am showing you a statement dated September 21st and a subsequent statement dated September 23rd, 1973, and some further additions dated September 24th, '73. Is that your handwriting, Mr. Collymore?

A Yes.

Q You wrote this out, did you?

A Yes.

Q And that is your signature that appears on it?

A Yes.

Q And the statement dated September 23rd, that's your writing?

A Yes.

Q And these additions that are on here, who wrote those,

do you know?

A Mr. Roberts, detective.

Q And were you there when he wrote them?

A Yes.

Q Did you read them over?

A He was writing as I was speaking to him.

Q And did you read these over afterwards?

A I don't recall if he read them or I read them over.

Q Did you and Mr. Schimmens have discussions about the statements that you were going to give to Mr. Roberts at any time?

A Discussions what?

Q Did you and Mr. Schimmens discuss this incident before you gave the statements to Mr. Roberts?

A No, I went upstairs and I wrote a statement and I wanted to see my lawyer first so I didn't put everything into the statement and then Mr. Roberts came down and I spoke to him then because I seen my lawyer then and he said everything's okay .

Q Now Mr. Collymore, the night before this scuffle that you were discussing earlier, you had a run-in with Mr. Andrews the night before, is that correct?

A When he turn ed off the TV.

Q And why did he turn off the TV?

A Like, we are supposed to get one late movie every week and we were watching the late movie and he came down and turned it off and he says "You are not supposed to

have it today".

Q And you swore at him at that time, is that correct?

A Yes.

Q What did you call him?

A I don't remember what I said but he said - later he told me, he says "Before you have any say in this Institution is when you have done enough time".

Q Well, on that particular incident though you called him a fucking pig, didn't you?

A No, it was on the night of, the night after that from coming back from the movie in the Segregation area.

Q I am showing you your statement, Mr. Collymore, dated September 23rd and you have identified some of the writing on this is not your writing but that it is Mr. Roberts writing. Now I would ask you to look at that first paragraph. Would you read that first paragraph to yourself?

A That did happen but I don't recall calling him - I may have. I don't recall calling him a fucking pig that night.

Q So what is on this statement is incorrect then?

A I wouldn't say no and I wouldn't say yes because I didn't quite remember exactly.

Q You may have called him that that evening?

A Yes.

Q And then it carried over till the next day and the next day you discussed with him the movie, is that correct, in the afternoon you discussed with him about the movie?

A With who?

Q With Mr. Andrews?

A No, no we went to the movie, I went to the movie that night and I discussed it when I came back from the movie. John Schimmens is not allowed to go to the movie and it was a gangster movie and John likes those. I went down and when I went down I was speaking to him about the movie and he handed me some novels. I went by his cell and I started talking about the movie, talking to John Schimmens.

Q Well, you had some sort of an argument in the gymnasium at the time of the movie with Mr. Andrews, didn't you?

A Yes, at the beginning.

Q Could you speak up, please.

A At the beginning when I just went down.

Q What happened then?

A Well, I went down and I was, like, when I went down before I was sitting right in the middle of the gymnasium. I wear glasses and I can't see the film from far and I went down, they put me right in the back against the wall in the back of the gymnasium and I asked them "Can I go up and sit where I sat last week when I went up to the movie" and he says "No, we got orders from the guard room saying you have to sit back there". I said "I can't see back there" and I told him I wear glasses and he says "That's not my problem".

Q Where were your glasses then?

A They were broken.

Q Are they still broken?

A Yes.

Q They have never been fixed?

A No, not yet.

Q Now when you went downstairs, you stopped at Mr. Schimmens' cell, is that correct?

A Hmum hmum.

Q And what took place there? Were you discussing something with Mr. Schimmens?

A Yes, we were talking about the movie and he handed me some novels.

Q You realized, of course, that you weren't supposed to stop and talk to Mr. Schimmens?

A I just went by his cell and I got some books and he started talking to me about the movie.

Q You, in your own mind, knew that you weren't supposed to stop and talk to Mr. Schimmens on that particular occasion, isn't that correct?

A We have done it before and nothing ever happened.

Q Well, I am showing you your statement again, Mr. Collymore. I am showing you this statement here. It says "I had stopped to talk to Mr. Schimmens which I shouldn't have done". Did you tell Inspector Roberts that?

A I am not - we just do but I don't think we are supposed to but we do stop in front of each other's cells sometimes, we do talk.

Q You knew that you weren't supposed to stop? Even though you had done it before you knew you weren't supposed to?

A Yes.

Q Now when you stopped then, describe again what happened when you stopped and talked to Schimmens.

A I stopped in front of his cell and he gave me some novels I was going to -

THE COMMISSIONER: He gave you some what, Mr. Collymore?

A Some books and I was talking to him about the movie and then Mr. Andrews, he was standing behind me and he pushed me.

THE COMMISSIONER: Now I want to hear this. You say you stopped and were talking to Schimmens and he gave you some books and then Mr. Andrews came down to where you were?

A He was down there with me because he had to open the door and he pushed me into the cell in the back and I put up my hands to stop from hitting the cell and I turned around and I was going to - I pushed him back.

THE COMMISSIONER: You pushed him back?

A Yes.

THE COMMISSIONER: After he pushed you?

A Hmm hmm. Then I pushed him back and said "Get your fucking hands off me, you pig".

THE COMMISSIONER: That's what you said?

A Yes, and he said something about punk to me.

THE COMMISSIONER: Punk?

A Yes, to me.

THE COMMISSIONER: How old are you?

A 17.

THE COMMISSIONER: I see.

A And he pushed me back again on my chest so I hit him.

THE COMMISSIONER: You what?

A I hit him.

THE COMMISSIONER: What with?

A My fist.

THE COMMISSIONER: Which hand?

A I don't remember. My right. Most likely my right.

THE COMMISSIONER: Whereabouts did you hit him?

A In the face and he went down.

THE COMMISSIONER: He went down?

A Yes, hit the floor and got up and he was saying "What's the matter with him? Stop him".

THE COMMISSIONER: Yes?

A And John did say - John said "Let me out of this cell to talk to him, calm him down". He said "I can't do that" and John says, he says, I don't remember exactly what words he said, "When you start pushing inmates around, you have got to pay the consequences".

THE COMMISSIONER: This was Schimmens?

A Something like that and then he ran upstairs and he was calling Mr. Williams while he was running upstairs "Mr. Williams, Mr. Williams" and then during the time he was running upstairs I was scared, I was nervous and John said "Go in your cell and take the bar off the wall".

THE COMMISSIONER: Take what off the wall?

A A bar, steel bar connected on my wall so I ripped the bar off the wall and I put it on the bench. I got a

that this incident be heard at the Inquiry by the inmates involved. For that reason it is called.

THE COMMISSIONER: Yes.

MR. PEACOCK: We have heard the evidence of this gentleman. We have four more witnesses, should you think that the incident involves further investigation.

THE COMMISSIONER: No.

MR. PEACOCK: I leave it to you and if you, of course, conclude that it doesn't, I think that I would have to concur with you.

THE COMMISSIONER: Well, I would like to hear from counsel for the inmates. Perhaps I should have asked for you first but quite frankly, I wasn't sure I heard him correctly, that I might have missed something the first time around. Now having heard it a second time I would like to hear from you whether you think it is within the terms of reference.

MR. LAYCOCK: Sir, I would submit it is, although there isn't excessive use of force, I think it is force that wasn't called for. He stopped to talk to a fellow inmate. It might not have been the normal practise, it is not allowed, I don't think there was any call for the guard to start shoving him around.

THE COMMISSIONER: Well, I am afraid that from his evidence that the fact that Andrews shoved him - I would have difficulty finding at this stage that that was an excessive use of force. Do you

seriously advance that, sir.

MR. LAYCOCK: Well -

THE COMMISSIONER: I don't want to appear dictatorial, Mr. Peacock, but unless I have the strongest representation from you, sir, I don't think we need to waste any more time on this incident.

MR. LAYCOCK: No, sir, that's all I have to say.

THE COMMISSIONER: I am not trying to be overbearing but -

MR. PEACOCK: I must say I concur. Our terms of reference are excessive use of force by guards.

THE COMMISSIONER: That's what I thought. I was going to ask Mr. MacDonnell for Exhibit 1 again.

MR. PEACOCK: As I think I pointed out, one of the things that we have to do is make certain that those people that wish to be heard within the terms of reference be heard and that is why the statements were taken and the evidence put before you. I think that wraps up the incidents that our investigation has uncovered. We now must decide what to do with respect to what I can now call the fifth, as opposed to the sixth portion of the Inquiry and that is the general portion.

THE COMMISSIONER: Mr. Meurin.

MR. MEURIN: Sir, I apologize for interrupting but just as a matter of procedure, I wonder if somebody, if we are not going to hear Mr. Collymore

any further if -

THE COMMISSIONER: If you want to -

MR. MEURIN: No, I concur in the decision.

THE COMMISSIONER: I just don't feel it is within our terms of reference.

MR. MEURIN: That's right, well, I concur. I wonder if that could be communicated to him in some form or fashion so that he doesn't feel -

MR. PEACOCK: I will communicate it to him.

THE COMMISSIONER:: Thank you. I will rule right now it is not within our terms of reference.

MR. PEACOCK: Fine. With respect to the remainder of the Inquiry, I think, as we have discussed amongst ourselves as counsel the terms of reference are excessive use of force by guards. Any general inquiry into the conditions at the Institution, I submit, must of necessity relate to force.

THE COMMISSIONER: Excessive use of force.

MR. PEACOCK: Excessive use of force.

As a result, we amongst counsel last night agreed on a pattern that we think will get to the ^{root} of whatever general inquiry we make in this fashion: There would appear to be separate interests with respect to the entire Inquiry. Those interests I define as the inmates, the prison staff, the prison executive staff, the correction officials in the Department of Corrections in Edmonton and then any outside interests that may be

involved so, in essence, we have five separate points of view which may be presented. All except the latter two groups are represented here by counsel. I propose, and I have the concurrence of other counsel, that rather than call 300 inmates with their views on conditions as they exist and rather than call the entire Correction staff and rather than call everybody else who might have something to say and keep us here for decades, we have decided that counsel for each group will decide who should be called to represent the point of view of the interests that they represent.

In other words, Mr. Scott and Mr. Macdonald will provide us with their clients' evidence and will provide us with the identity of inmates they wish to call who will have evidence to bear on the general condition and relating to use of force in the Institution.

Mr. Stilwell will also call evidence to place the point of view of the staff at the Institution before the Commission. Mr. Meurin will call evidence with respect to the executive staff at the Institution. It will then be, I suppose, up to me to decide who will be called from the general public and who will be called from the Department of Corrections in Edmonton and I think in that fashion by leaving the responsibility to counsel, we can, I think, proceed more expeditiously and perhaps keep the terms of reference or keep the Inquiry within the terms of reference established.

We had initially planned to begin the general portion of the Inquiry next Monday but I understand you are unavailable for sitting next week. It is therefore my proposal to adjourn today until a week from next Monday.

THE COMMISSIONER: Is there nothing we could do today or tomorrow morning?

MR. PEACOCK: I think it's going to be difficult primarily because I think counsel are going to have to meet. If I may just give an example, we have received statements from various inmates with all kinds of suggestions. If we called them all we would have the entire group of them here. Mr. Macdonald and Mr. Scott are going to have to, I think, interview the prisoners, interview their spokesman and decide who to call. I think that's going to take more time than - that they could accomplish anything this afternoon so I think on the basis we are not available Monday, it would be my suggestion that it would give everyone an opportunity to jell their position to decide who to call and we will proceed with the Inquiry a week from Monday.

THE COMMISSIONER: That's on the 12th?

MR. PEACOCK: On the 12th of November.

THE COMMISSIONER: Thank you.

MR. PEACOCK: That is subject to any comments of other counsel.

THE COMMISSIONER: Anyone anything further

to add?

MR. MEURIN: The only comment I have to make, sir, is that I find it a certain amount of difficulty in that we have been dealing with specific instances and of course, it is difficult to confine yourself to those incidents and how the general picture relates to those incidents without getting into a very broad Inquiry and quite frankly, I don't think that that is the function of this Inquiry. I find some difficulty in sort of jelling in my own mind how we are going to confine ourselves to that type of evidence.

MR. WILKINS: On behalf of the staff, sir, as you are well aware, the longer that this Commission sits the more problems that seem to arise on a daily, at least on a weekend basis at the Correctional Institution. On behalf of the guards, which Mr. Stilwell and myself are representing, our position would be, if at all possible, to push on as quickly as possible without having a 10 or 12 day delay just from the viewpoint of perhaps causing less trouble and the matter sitting in limbo, which I am sure you, Mr. Commissioner, and other counsel realize is putting a great deal of pressure on the staff at Spy Hill.

THE COMMISSIONER: I have been aware of that from the outset, Mr. Wilkins, and I appreciate your comments. The only problem is I have a prior commitment, frankly, with the Court of Appeal which I am afraid takes priority over any sittings that I may preside over. Unfortunately I would certainly, and I had hoped that we

could proceed, in view of what has taken place this morning, is there no way we could get something done this afternoon? Mr. Meurin, is there any way you would be prepared in any way to go this afternoon? Could we have a short adjournment?

MR. PEACOCK: Perhaps if we could meet and decide what to do and then reconvene?

THE COMMISSIONER: Yes, I think your point is well taken. We have this afternoon and we have tomorrow morning.

MR. PEACOCK: If we could just meet -

THE COMMISSIONER: 10 minutes.

MR. PEACOCK: I am wondering, if we are not going to reconvene I don't think we should bring everybody back at 1:30.

THE COMMISSIONER: No.

MR. PEACOCK: If we could adjourn for 10 minutes.

THE COMMISSIONER: 10 minutes.

(Inquiry adjourned for 10 minutes).

MR. PEACOCK: Mr. Commissioner, we have determined that we will have some evidence which we believe will be available to call tomorrow morning. The witnesses involved have been unable to get themselves organized for this afternoon. They had initially been subpoenaed for Monday so if we can, we will adjourn till ten o'clock tomorrow morning and I think when we are finished with the evidence tomorrow morning we will

then adjourn to the 12th.

THE COMMISSIONER:

Thank you, Mr. Peacock.

(Inquiry adjourned).

DEPOSITIONS TAKEN AT 10:00 A.M., NOVEMBER 2ND, 1973:

MR. PEACOCK: Mr. Commissioner, we have three witnesses scheduled to be called today, all of whom are not employed as such at the Institute. I would first like to call Mr. Jim David. I might advise that there are more counsel here today. Mrs. Hetherington represents Mr. David. Mr. Bourassa represents the John Howard Society I believe and Mr. Carscallen represents Mr. Murray Dale.

THE COMMISSIONER: Yes.

MR. PEACOCK: Mr. Laycock again is appearing for the inmates.

THE COMMISSIONER: Thank you, Mr. Peacock.

JAMES I. DAVID, having first been duly sworn, examined by Mrs. Hetherington, testified as follows:

MRS. HETHERINGTON: Mr. Commissioner, I would advise before I commence my questioning that my client has a well-deserved, in my opinion, reputation for verbosity and I would ask some leeway in interrupting him and in leading him. I have no wish to restrict his evidence. My learned friends are of course at liberty to cross-examine, but I wish to explain in case I start to interrupt him, that I am not wishing to restrict any information which he might put before you, but I simply wish to restrict the length of his replies.

THE COMMISSIONER: Mrs. Hetherington, there

are many things about you which are refreshing not the least of which is your candor.

MRS. HETHERINGTON: Thank you, sir.

Q Mr. David, I understand that you are a graduate of the Corrections Program at Mount Royal, is that correct?

A Yes.

Q And you are presently employed by the John Howard Society in Calgary?

A Yes.

Q How long have you been employed by the John Howard Society?

A Less -- just less than two years with a one-year placement as a student from the Correctional Period Program.

Q So that you have been associated with them for a total of three years?

A Not quite.

Q Just under three years?

A Yes.

Q In what capacity?

A I do parole supervision, general case work. My primary is employment coordination for ex-offenders.

Q Mr. David, you have been visiting at the Calgary Correctional Institution in connection with your work?

A Yes, I have.

Q How long have you been doing that?

A Since June, 1972.

Q How often have you been going out to the Institution?

A At least once a week.

Q From the time when you commenced visiting at the Calgary Correctional Institution until the 17th of July of this year, was any complaint communicated to you with respect to your work?

A No.

Q Have you been commended in any way by anybody connected with the Institution for your work?

A Yes.

Q By whom and when?

A By Mr. Jackson, warden.

Q When was that?

A On visits and openly at a public meeting, ah, for the John Howard Society and the Correctional Institution.

Q This was a public meeting of the John Howard Society?

A Affiliated with the Correctional Institution, yes.

Q And held at the Institution?

A Yes.

Q When was this meeting, Mr. David?

A I can't remember.

Q I see. As recently as six months?

A No, this was last year.

Q Has your relationship with other officers and employees of the Institute been favourable?

A Yes, and they have been improving steadily I thought.

Q Have they cooperated with you with respect to your work?

A Yes, some.

Q Now, you have indicated that you had visited the gaol at least once a week?

A Yes.

Q What day do you go out to the gaol?

A Every Wednesday.

Q Would you outline briefly to the Commission the procedure that you follow when you arrive at the gaol on your regular visits?

A I go to the front desk and I ask the receptionist Judy for request slips. I take --

Q These are blank forms, right?

A These are blank request slips. I take those request slips and proceed to the Social Workers' office, Mr. Don Burroughs' office, where I take out a book that he keeps in a file. It's called the John Howard Request Book. In that book are names of individuals who previously have requested to see a John Howard worker, and sometimes during the week, mothers or brothers, sisters, whatever will phone up asking, requesting that I see an inmate for a specific reason. I -- I take that request information out of the book, transfer it onto the request slips. And I take them back to the receptionist who then documents it, stamps it and then I take the request slip to the correctional officer on duty in the control room, the duty officer and he calls the man up for the interviews.

Q Mr. David, to go back to the John Howard book that you have referred to, you would find a certain number of names in the John Howard Book?

A Yes.

Q And these as you understand it are the names of the men who have asked to see you?

A Yes.

Q Do you know approximately how long it takes a request to get into the John Howard Book?

A Ah, the requests usually have to be in by Sunday night before they can see me. Any later interviews that I get usually come about because the social work people or a correctional officer will request that I call a man up. Now, on the spur of the moment like they will come to me and say "Could you see this man. This is his problem". We discuss it between interviews and the correctional officer on duty calls them up.

Q I see. So that there are a certain number of names in the John Howard Book of people who are requesting to see you?

A Yes.

Q Each week when you go up. And in addition to that, you see prisoners about whom you have received telephone calls?

A Yes.

Q Or their parents may have contacted you? Somebody has contacted you and asked you to see a prisoner?

A Yes.

Q Do you also see prisoners that you have seen before?

A Yes. This is --

Q Do you have an ongoing relationship with certain prisoners?

A Yes.

Q At the gaol?

A That's what I was going to say. It was an ongoing relationship with several individuals who have specific problems that require an ongoing situation and regular contact.

Q Now, Mr. David I would like you to direct your attention to the 18th of July of this year. Did you follow this procedure on the 18th of July when you went out to the Calgary Correction Institution?

A Yes.

Q On the 18th of July did you interview any persons other than those that you have described? That is other than people who, prisoners who had requested to see you? Prisoners with whom you had an ongoing relationship or prisoners whose relatives had contacted you?

A No, I did not.

Q Mr. David, on the 18th of July I believe that you saw five prisoners. One a man by the name of Madsen, a man by the name of Berglund, Watson, Spooner and Krauss. Can you recall and would you be able to tell the Commission whether these people were people who had requested to

see you or whether you called them out for another reason?

A All with regards -- ah, Madsen and -- well, Berglund and Watson I had never seen before. I didn't know -- I didn't even know they existed. Krauss I had interviewed once before. I can't remember whether it was two or three weeks previous and there was no follow-up needed with the case by our office. Berglund also was an individual I had never met before. I didn't know he existed until I saw his name in the John Howard Book.

Q I see. So that you are saying that you saw the names of Berglund, Watson and Krauss in the John Howard Book?

A And Madsen, yes.

Q And Madsen?

A Yes.

Q When you arrived at the Institution?

A You see, it's been a long time and I can't remember about Spooner. I might have called Gary up because of the ongoing relationship. I have got memos to files documenting every interview I have had with this individual and because of the growth over the past -- well, it's been --

Q You had seen Mr. Spooner before?

A Yes, I had.

Q I see. And you were accustomed to calling him up on

occasion to discuss his particular problem?

A Yes.

Q Because he did have special problems requiring your attention?

A Yes.

Q Now, all of these men that I have named, were they at that time from the West Wing?

A That -- those five mentioned, yes, as far as I know.

Q Did you see anybody else that morning in interview from the West Wing?

A No, I did not.

Q As a result of your conversations and your interviews with the five men that I have named, did you call up any other prisoners?

A No.

Q Now, in walking around the halls of the Institution Mr. David, did you see other prisoners?

A Yes.

Q Did you have any conversation with any of these prisoners about an incident occurring the previous night?

A Just that they -- they had said, ah, "You hear what happened?". I just nodded "Hm hm". And they would be waiting to see Mr. Elliott or Mr. Merriam on a little bench that's outside the control room. And in between interviews they would call my man up and I would step out of my office and it was just --

Q Did you ask --

A -- mild interaction.

Q -- anything about an incident occurring --

A No.

Q -- on the 17th. Now, with respect to the five men whose names have been placed before the Commission in your evidence, did you take statements from any of these people?

A What do you mean by statements?

Q Did you take written statements? Did you ask them --

A No.

Q -- to put anything in writing?

A No, I did not.

Q Did you ask them to put anything in writing to submit to anybody?

A Not at any time, no.

Q What was the nature of the interviews that you had with them with respect to this incident?

A Ah --

Q Did you question them with respect to the incident?

A I didn't have to question them. That was the topic of discussion at their choosing when they first came up. I didn't have to ask. It just spilled out of them.

Q Did you examine, speaking now of the five people, did you examine any who complained of injuries?

A Yes, I did.

Q Who did you examine and what injuries did you -- what

signs did you observe of injury?

A Ah, only two individuals, Spooner and Watson. And Gary complained of a swollen kneecap. He didn't tell me --

Q I am sorry, is that Gary Spooner?

A Yes, it was. And I said "Can I see it" and he rolled up his pantleg and I did see an inflamed knee. I saw slight bruise -- just a slight bruise on his forearm and a blue bruise on the shoulder. And when both individuals came to me their eyes were dark and their faces were --

Q Excuse me, they didn't come to you together? You mean as each one came in?

A As they were called up by the correctional staff.

Q Yes.

A And their -- their faces seemed to be swollen and this is the leading question I did ask them. I said "Did anybody strike you in the face, Gary?" And he said "No". He said -- I lifted my shoulder and he said "They didn't". And I said "It just looked like this". He said "Man" he said "How would you feel if you didn't -- if you were nude with four other fellows in the same compartment and not having any sleep. If my face has any marks or any appearance of marks on it, it must be from the lack of sleep".

Q Now, you have indicated that Spooner had a swollen kneecap and the bruising that you have described?

A Not severe bruising. It was --

Q Slight bruising?

A He said he had worse beatings on the street than that and it wasn't -- he didn't look upon it as a beating. It was like -- well he -- he talked with a great deal of respect for some of the correctional officers which I -- ^{I have} /had documented.

Q You observed the injuries that you have described to Spooner?

A Yes.

Q And you observed the condition that you have described with respect to his face?

A Yes.

Q Now, I think you have indicated that you observed other injuries?

A Jack Watson.

Q On another prisoner. Yes. Could you describe those, please?

A Marks on his wrist. I don't know what it could be caused from. It could have been the hand -- it could be handcuffs. I don't know. Everything I did get was hearsay but I do know that he had bruises, Jack Watson -- Gary only had bruises on one forearm and a slight bruise on one shoulder. I do know that Jack Watson had bruises approximately here on both shoulders and his bruises were just a little more severe, not much more severe than Gary's.

Q Did his face have the same appearance that you have

described?

A Yes, it did and I asked him the same question. I asked whether he had been slapped, struck about the head and he said "No".

THE COMMISSIONER: Why did you ask that?

A Because of -- his eyes were dark and the -- his face seemed to be swollen you see. And I asked him when he was showing me the marks, I asked him -- I said "Your face seems to be swollen". And I said "Were you ever struck on the face?" and he said "No". And I said "Not at all?" and he said "No", and I said "Okay".

O Mr. David, did you on that day conduct an investigation of any kind into the incident that was described to you which was alleged to have occurred on the 17th?

A No.

Q Did you at any time conduct an investigation into that incident?

A I followed regular routine with what the administration of the Institution appeared to be happy with for the past number of months.

Q Does that constitute an investigation or a reporting?

A I didn't think so. I know that I did not go out reaching for more information. I followed regular routine and I know how vulnerable a situation like that could be if I started to follow it.

Q All I am asking you Mr. David is whether or not you

investigated, whether you made further inquiries?

A No, I did not.

Q Into the incident. Now, Mr. David at the time when you spoke to the five prisoners that have been named in your evidence, did you intend to publish in any way the information which you received?

A No.

Q Did you at any time form an intention to publish the information which you received?

A No, not then but later on after my name was drawn into it, it did cross my mind.

Q But did you decide that you were going to publish?

A No.

Q Mr. David I believe that you prepared a report on the information which you received?

A At the request of my -- my employer, Mr. Bob Shebib. Bob was on holidays at that time.

Q What time is this? On the 18th?

A On the 18th, yes.

Q And when did he return?

A On Monday.

Q The following Monday?

A The following Monday.

Q I see. And you were preparing a report at his request?

A Yes.

Q Did you intend to publish that report?

A No. It was confidential only for Mr. Shebib.

Q Now, Mr. David you have given evidence with respect to the interviews that you had at the Institution. After you left the Institution on the 18th, did you discuss the information that you had received with anyone?

A My wife, my co-workers.

THE COMMISSIONER: I treat that as privileged.

Q MRS. HETHERINGTON: Anybody else?

A I didn't share --

Q At that time?

A I didn't share any of the information at all with anybody, not even the members of my community association or my personal friends. It was nothing that I -- what they -- they do. I didn't share it with them.

Q So that you did not discuss it with anyone?

A But when my name was brought into it on one of the news comments, my friends would phone me up. Like I am on the executive in my community association and they are asking me "What's going on?". Then I had to --

Q When did that occur? When was your name brought into it, Mr. David? Was it that week or the following week?

A The following week.

Q I see. So at that time you did discuss the matter with other people?

A Can I clarify that?

Q Yes.

A My name was not brought into it. The insinuations were

there but my name had not come out as Jim David but there's only one visiting John Howard worker and the insinuations were definitely there.

Q This was the following week, was it?

A Yes, ma'am.

Q Now, going back to the 18th Mr. David and again with respect to the five people that we have named, who were the only ones from the West Wing that you saw on that day, did you advise at that time any of these prisoners to lay charges?

A No.

Q Did you advise any of these prisoners to seek legal counsel?

A No.

Q Did you at any time advise these men to lay charges?

A No. I -- I -- the thing that I did was Gary asked for help and he said "What can you do?".

THE COMMISSIONER: That's Spooner?

A Yes, sir. And I thought I could share the information with Mr. Jackson. I have always thought well of the man and I told Gary, I said "Look, you have to live here. I promise you before I leave this Institution today I want to share my information with Jim Jackson and I'm sure if he's equipped with this information he can take action, proper action in Warden's Court". So do you want me to go on?

Q Mr. David, could we go back a bit. My question to you was whether or not you had advised them --

A No, I did not.

Q -- at any time to lay charges?

A No.

Q Did you advise them at any time to seek legal counsel?

A No.

Q Now, you were indicating that you told Spooner that you would see Mr. Jackson about the incident?

A Yes, I promised.

Q Did you attempt to do that?

A Yes, I did.

Q What happened when you attempted to do that?

A I went down to the Warden's outer office and I asked the lady if I could see the Warden. She said "I'm sorry but he's interviewing right now". I said "How long will he be?". And she said "I'm not sure. He's in an interview now and he has one after". And I sat and I waited and Mr. Merriam came down the hallway, and I said "Mr. Merriam, can I see you in private for a second". He said "What about?". I said "Well, I would just like to talk to you and give you some information that I want passed onto Mr. Jackson".

Q Did you then tell Mr. Merriam about the information that you had received?

A We went into the Warden's office and we sat down and yes, I shared all the information that I had received from the inmates with Mr. Merriam.

Q Did you ask him to communicate that information to the Warden?

A Yes. And -- and I also said "Mr. Merriam please" I said "this is really important". And I said "Could you promise". He said "Jimmy, I will take care of it".

Q Did you subsequently check with Mr. Merriam to see whether or not he had spoken to Mr. Jackson?

A I did.

Q When was that?

A The following week.

Q And what did he say?

A Well, when I went in -- well, what did he say?

Q Yes. Did he say he had or had not?

A He had not but I had received the information beforehand because the fellows -- the information I wanted passed on they were reprimanded further by a 30 day -- well, so many days loss of privileges.

Q Yes.

A On top of everything, you see.

Q But you spoke to Mr. Merriam about the matter as I understand, he told you that he had not spoken to Mr. Jackson --

A Yes.

Q About it?

A And I asked him why.

Q Mr. David, was your concern solely with the injuries which these men had sustained or were you concerned with the fact that one or two of them said they had not been involved?

- A That was my prime concern. You see, the inmates that came up gave me information who, the individuals who were causing a disturbance by yelling for the radio back on. They said they were banging boots on the end of their bed and --
- Q Did the information that you received indicate that somebody other than those who were involved had been punished and were in Segregation?
- A Yes.
- Q And was this one of your concerns?
- A Yes, it was definitely.
- Q Was this concern expressed to Mr. Merriam?
- A Yes, it was.
- Q What happened after that, Mr. David? After you left the Institution you have indicated that you spoke to your co-workers about the matter?
- A I returned to the agency, quite late because I had gone through quite a few interviews that day, and Mrs. Thordis Gutnick was the acting executive secretary on Bob's behalf while he was away on holidays. And Mr. Farewell, the assistant was also away on holidays. Before I even made the decision to go to Mr. Jackson, I do know that it's policy that I should not take any information to the administration myself. I made a decision --
- Q This is a policy of what, the Society?
- A Of the John Howard Society. I am not to take information. I do unsponaneous when I see things and Bob and I discussed this problem that I have and he directed me

in the future -- this is a long time previous to this.

Q I see.

A That I should do that.

Q There's a policy in the John Howard Society by agreement with the Warden?

A Yes.

Q With Mr. Jackson?

A Yes.

Q That you will communicate first with the executive director who will then --

A No, the executive secretary of the John Howard Society. And he in turn would go to Mr. Jackson. But Bob was away on holidays and so was Brian.

Q So you attempted to do what you felt would be the ultimate result?

A Before I went out of the interview rooms I sat there for 15 minutes trying to sort out what should I do. I made a decision and the decision that I made --

Q So what did you do after you left the Institution and what happened about this incident after you left the Institution, aside from the fact that you spoke to Miss Thordis Gutnick about it?

A She reserved any decision whatsoever because of the severity -- well, what was happening. So on Monday when Bob returned, Thordis and I went into Bob's office and when we shared the information with Bob, he asked that I give him an immediate report. It's in --

Q And did you do that?

Q You have initialled it?

A Yes, I have, sir.

THE COMMISSIONER: And any gramatical errors?

A Oh, God forbid.

MR. PEACOCK: When the Clerk comes back,
we will mark that as an exhibit, sir.

Q Sir, in discussing this matter with the inmate in question,
you have indicated that your discussions about the
incident of July 17th arose during your normal relations
with the prisoners?

A Yes.

THE COMMISSIONER: Will you mark this the
next exhibit in order Mr. Clerk.

THE CLERK: Exhibit 55.

EXHIBIT 55 - REPORT OF
JAMES I. DAVID.

Q When you subsequently communicated this information that
you had received to the Warden's office and to your
superiors, can you tell me when was the first involvement
you had in any requests for a public inquiry?

A I didn't have any involvement in that decision.

Q I see.

A That decision came out the following Thursday I think.
Like the next week but that was in response to my --
well, I can't answer that.

Q All right. Did anyone to your knowledge from the John
Howard Society request publicly an inquiry into this
incident on July 17th?

A Could you repeat that, please.

Q Did anyone from the John Howard Society to your knowledge publicly request or demand a public inquiry into the incident on July 17th?

A It was requested, yes.

Q By whom?

A Mr. R.A.D. Shebib.

Q I see. And do you know to whom that request was made?

A I -- I wasn't part of that process.

THE COMMISSIONER: Decision-making process, is that it?

A I wasn't part of that process. I think he made it to -- openly to CKXL after talking with Board members. I'm not sure.

THE COMMISSIONER: That would be open all right.

Q MR. PEACOCK: Now, I wondered if you could tell me, you have some fair idea of the operation of the Correctional Institute, do you?

A Yes, I do.

Q If in a hypothetical situation to your knowledge, if an inmate suffers a beating, let's say a private beating by a member of the staff down in the meditation area.

A Hmm hmm.

Q What recourse or what channels of information does that prisoner have to get that complaint towards authorities or before authorities?

A Nothing until he's called up before the Warden.

Q I see. So if he doesn't say anything --

A Can I clarify this.

Q Yes.

A I have never seen a real severe beating by correctional officials. I have seen slight bruises and things, but the most severe beatings in prisons come from inmate to inmate.

Q Well, I think we can appreciate that, Mr. David but what I am doing here is, we have heard evidence here from almost 75 witnesses concerning operations out there over the last several months. What I am putting to you is simply a hypothetical question assuming that a severe beating took place and I am not eluding to the fact that this happened. Just assume that it does, that an inmate is severely beaten in the meditation area by a member of the correction staff. What to your knowledge is the channels of communication that this inmate would have?

A Ah --

Q To get --

A -- await a correctional officer to come to bring him up to Warden's Court. In this case when they did call Jack Watson and Gary up to see me, I had to wait for approximately 45 minutes while the decision was made in the control room whether they were going to let me see them. I -- there was, you know, verbal communication that I could see going on.

Q Are you aware that there's uncensored mail to the Ombudsman?

A That was my prime concern. You see, the inmates that came up gave me information who, the individuals who were causing a disturbance by yelling for the radio back on. They said they were banging boots on the end of their bed and --

Q Did the information that you received indicate that somebody other than those who were involved had been punished and were in Segregation?

A Yes.

Q And was this one of your concerns?

A Yes, it was definitely.

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Q And did you do that?

A Yes, I put it on dictation and the English is atrocious.

Q But you did make a report to him?

A Oh boy, yeh.

Q From that time on, were you involved in any way with decisions with respect to this matter?

A No, it was completely out of my hands.

Q Did you at any time make a request for a public inquiry yourself?

A I discussed it with my supervisor but that's not my decision. That's the decision of my board and my secretary.

Q And a request for a public inquiry was made by the John Howard Society, is that correct?

A yes.

MRS. HETHERINGTON: Mr. David, I have no further questions of you. Would you answer my learned friend, please.

A Thank you.

THE COMMISSIONER: Mr. Stilwell?

MR. STILWELL: I have no questions.

THE COMMISSIONER: Mr. Peacock?

CROSS-EXAMINATION BY MR. PEACOCK:

Q I wonder, I have received a copy of what appears to be your report to Mr. Shebib, Mr. David. Would you advise the Commissioner if that is your report or a signed copy of your report, please.

A That is the report. There's been changes made on it. Like the changes are just to correct my English.

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Q Are you aware that there's uncensored mail to the Ombudsman?

A Yes, I do.

Q And that complaints of that sort can be put through that channel?

A Yes.

Q And that the Ombudsman Department will conduct an inquiry and channel off the report to whatever area it should be channelled off to?

A Hopefully, yes.

Q Are you aware that the inmates in question including the ones that you interviewed were placed into contact with the Royal Canadian Mounted Police?

A Mr. Merriam told me that.

Q I see. And when was this?

A The following week.

Q I see.

A Yes.

Q Are you aware that there's a request form that can be filled out by an inmate?

A Yes.

Q And given to the Warden?

A Yes.

Q Now, with respect to your activities as a counsellor, do you feel that if members of the John Howard Society don't become involved in complaints of this sort to endeavour to channel them to the right authorities, that they may not be channeled there?

A Could you repeat that, please.

Q Well, what I am wondering is this. You are a counsellor for the John Howard Society?

A Yes.

Q And if you become involved as you have in this one, whether indirectly or directly involved in the thing what I am wondering is this, if you don't become involved in hearing complaints and endeavouring to channel them, as you did in this case, do you feel that the inmates will have difficulty in getting their complaints channelled to the proper authorities?

A No, it will go -- I think it's uncensored also. If they request to see or write the Ombudsman they have that privilege of uncensored or non-censorship I think.

Q But you are aware that subsequently these inmates who allege that they were beaten on July 17th were subsequently placed in contact with the RCMP?

A They were placed in --

Q In contact with them?

A I didn't know that.

Q Well, have you since found out?

A No, I didn't know that.

Q I am a little confused because I think just a minute ago you indicated that Mr. Merriam told you about a week later that the RCMP --

A He told me -- no, he said -- he told me, he said 16 or 17 letters had been written to the Ombudsman.

Q Oh, I see.

A That's what you were talking about.

Q Well, I don't think it was.

A I think --

Q But that's probably what you were talking about. So you didn't know that the RCMP were involved or had investigated this matter?

A No.

Q I think that was my question. We have now got the answer. Having received this information from the inmates and preparing your report which you submitted to Mr. Shebib, did you endeavour to discuss what had occurred with members of the correction staff itself?

A Yes, yes. I thought that was the channel, the first channel that should be taken. I thought that I should contact -- I made a decision. It wasn't agency policy. I made this decision on my own. I thought that I could share this information with Mr. Jackson. I have known him for a number of years and I thought I could go to him with the information.

Q Pardon me for interrupting you. Maybe my question wasn't that clear. It's simply this. Did you interview any of the officers who allegedly beat the prisoners?

A No.

Q And did you endeavour to interview any of the officers who allegedly beat the prisoners?

A I just tried to go to Mr. Jackson with the information.

Q One further question. When this story was broadcast through Editorial through CKXL, you are aware that in

one of the reports mention was made of a lengthy report that the John Howard Society had in its possession?

A Yes.

Q Did you at any time discuss that report or discuss the contents of that Editorial with Mr. Murray Dale of CKXL?

A I just met Murray Dale for the first time in that room right back there.

MR. PEACOCK: Those are all the questions I have.

Thank you, Mr. David. Would you answer other counsel, please.

THE COMMISSIONER: Mr. Meurin.

Q Sir, I have just had an opportunity to glance over this report and there are quite a few things with respect to some of the inmates who have testified here as to what they told Mr. David at the time, and I would like to check it from my own notes as to what they have said before this Inquiry.

THE COMMISSIONER: I believe there's other counsel here, Mr. Meurin. Perhaps you can do both. Keep one ear out and listen to the questions and check the report.

MR. MEURIN: Well, I would like perhaps a short adjournment so I can check my other notes against this report. I think it probably goes to the prisoners' credibility. There are general questions I would prefer to ask on this matter but so far as this particular report

is concerned --

THE COMMISSIONER: Mr. Meurin, we are certainly not going to call the prisoners back here.

MR. MEURIN: No, sir.

THE COMMISSIONER: With respect to what was given in a report, a report to this person who has since transcribed it. He admits there were some grammatical errors. But far be it from me to inflict upon counsel the necessity of proceeding if they don't feel they are prepared. Do you want a short adjournment?

MR. MEURIN: Perhaps the Reporter would prefer one as well.

MR. PEACOCK: I believe Mr. Stilwell wants one, sir.

THE COMMISSIONER: Then there's no question. 10 minutes.

(Recess).

(Reconvening).

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, I just want to refer to several parts of the report that you typed up and the statements that you took from these people. I will start with the paragraph on page 2. "The first individual I interviewed was Jack Watson who substantiated the story of Berglund, Madsen. Jackson informed me that he was lying on his bed and stressed that he had not taken part in any of the verbal-feedback that was going on over the lights being turned out and

the radio being turned off".

A To start with the first part, I saw three individuals. That was the first individual who was --

Q Well, wait for my question.

A -- in the hall.

Q Wait for my question, sir. Now, the point that I want to make is Watson told you that he didn't take part in any of this verbal feedback, is that correct?

A He said he was after the -- he had taken part earlier on and then he laid down and he didn't do -- he was just laying on his bed.

Q Okay, sir.

A And the other inmates substantiated that.

Q Okay, sir. Were you aware that Watson admitted in this Inquiry that he pleaded guilty in Warden's Court the next day to creating a disturbance?

A I don't know. I -- I wasn't here at the Inquiry. I don't know what he said.

Q Okay. Well, if he said that it seems to me that would be an admission that what he told you that he didn't take part would be untrue, is that correct?

A Not necessarily, sir because he did say it because every interview that I conducted that day I take notes and anything that was said in that report was based on the notes that I took during the interview.

Q No, no. I'm not saying what you have written down is untrue. I am saying what Watson told you could be untrue?

A Possibly.

Q Okay. Now, let's move on to Spooner then. On the third page, now, there's a statement here that "Gary denied taking any part in the disturbance". I take it that's referring to Gary Spooner?

A Yes.

Q And he told you that?

A Other inmates told me that. Roy Krauss, Berglund.

Q Just a minute.

A No, please. You see, I am trying to answer this question.

THE COMMISSIONER: Just a minute, Mr. David.

Wait for counsel's question. Let him put it to you and then answer it.

MR. MEURIN: I asked you a very simple question. Whether or not Gary Spooner told you that he didn't take any part in the disturbance?

A Yes.

Q Okay. Now, my notes from the testimony that Spooner gave is that he testified he yelled. Now, if he gave that kind of testimony, I take it that what he would have told you that he didn't take any part in the disturbance would have been untrue, is that correct?

A I agree that Gary said that he yelled. He yelled out to another individual who called out his name. He said "Look you kids, you kiddies, why don't you go back to sleep. They are not going to turn the damn radio back on anyway". That was his comment to another individual

who yelled out "Heh Spooner" in the darkness. And he said "Keep my name out of this, damn it. They are not going to turn the radio back on. Why don't you go back to sleep". Something to that effect.

Q Now, there's also a statement here that the swollen kneecap Gary told you was caused by a kick given by Schlegel while he was handcuffed and lying on the floor, is that correct?

A That was what what was stated that day.

Q That's what Spooner told you?

A Yes.

Q Now, my notes indicate sir that Spooner when he gave evidence at this Inquiry indicated that he banged his knee on the door when he was going in the hole. If Spooner gave that evidence at this Inquiry, and he told you a different thing, I take it that probably what he told you was untrue?

A I talked to Gary the week following and he has respect for certain individuals involved in this situation and as a -- as human beings, as people that he can identify and respect and he -- he did not want to bring any more pressure on those individuals for his own reasons.

THE COMMISSIONER: That does concern me a little. Is it your suggestion then that what he said under oath was not true because of this respect?

A I don't know what he said.

THE COMMISSIONER: You have just heard from counsel.

A I don't know. I know the information --

THE COMMISSIONER: Now, Mr. David I asked you to listen to what counsel had to say to you and as I understood your answer, you were now giving an excuse as to why the evidence which he allegedly gave under oath was different, and you are suggesting as I understood your answer, what he told you was true because he was attempting to protect certain people. Now, I want you to consider the implications of your answer.

A Yes, sir.

MR. MEURIN: Let's put it this way, sir. I don't think you answered my question but you would certainly agree that if what I have given you as a resume or summary of Spooner's testimony --

A Hmm hmm.

Q -- and what he told you, there certainly is a variance, isn't there?

A There is. Time heals.

Q Yes. Now, sir I take it that you have had some experience with seeing Court proceedings and also with respect to interviewing inmates and so on. Would you agree with me when I would say that to hear only one side of the story may sometimes be unreliable?

A Definitely. That's why I wanted to share with Mr. Jackson.

Q Now, I take it that you have dealt with Warden Jackson

on previous occasions and you have always received the fullest cooperation and there's never been any attempt to cover up anything?

A From him, yes.

Q And you have always received the fullest cooperation from Warden Jackson?

A I said from him, yes. I have got a great deal of respect for the man.

Q That's all I asked you. .

A. But what is said not necessarily always gets to Mr. Jackson so how can he act on it.

Q Was your complaint to Merriam directed to the area that you felt some of the individuals who had been charged were being unfairly dealt with in that they had been singled out, and they shouldn't have been singled out, or was your concern with respect to a beating?

A I didn't know that for sure. I wanted to share the information with Mr. Jackson so that it could be clarified. That was the story, the consistency of the information that I had received from the inmates. I was hesitant to put all my stock into the information I received and I attempted to go to Mr. Jackson to share my information so that he could act accordingly.

Q Well, as far as what he is supposed to do, it seems to me that there were two areas of concern, from reading your report. No. 1, that some individuals had been singled out when they shouldn't have been singled out in the West Wing. In addition to that, some inmates

had allegedly been beaten.

A That was the information I received, yes.

Q Okay. Now, there are those two main areas. Now, when you communicated to Merriam what was your area of concern? That some people had been unfairly charged or that some people had been beaten or both?

A I didn't say to Mr. -- I didn't mention anything about beatings. I said the stories that I had received had been consistent. There was men isolated in the Segregation cells who had no communication with the three individuals who I interviewed, you see.

Q Well, I am still left with my question unanswered. I still don't know whether or not when you talked to Merriam if your main concern was whether or not some people had been unfairly charged?

A Yes.

Q That was your concern?

A Yes.

Q Okay. Did you communicate to Merriam this concern that some people had been beaten when they shouldn't have been?

A Not beaten but putten into the hole and -- and I told Mr. Merriam that I received information. I saw some bruises on Watson and Spooner. I said I wanted to share the information with Mr. Jackson. I said I would go home and he could phone me at home. I would stay at home and I told my wife that evening that we weren't,

that we weren't going out. I had to wait for Mr. Jackson's call if he would contact me.

Q Okay. So would it be fair to say then that the main concern that you expressed to Merriam would be with respect to individuals being singled out when they shouldn't have been?

A Yes.

Q Okay. Now, you have made mention that the executive or somebody above you were the people that were in the John Howard Society that were instrumental in requesting a public inquiry, that you had no part in it, is that correct?

A I talked about it but that isn't my decision.

Q Okay. It was what, an executive council decision?

A With my boss, yes.

THE COMMISSIONER: With your who, sir?

A Mr. Shebib.

Q MR. MEURIN: Now, what I want to know is whether or not this was a decision that Mr. Shebib sort of took on himself, as you know it or was it a council decision?

A He can't -- he didn't do that on his own. He had to contact members of the Board.

Q Are you aware that Warden Jackson is on the executive council?

A Yes, and Bob did go to Mr. Jackson with my report with Mr. Brian Farewell and he shared the report, the written

report with Mr. Jackson.

Q Are you telling me that it is your information that this four-page report was shown to Warden Jackson?

A As far as I know it was.

Q Okay.

A Or they talked about it with Warden Jackson.

Q I take it this would only be secondhand information anyway? You have got no direct knowledge that Warden Jackson hasn't told you that he had seen this report?

A Bob went out to the Institution and Bob told me that he had shared the information with Mr. Jackson and upon sharing it with Mr. Jackson, apparently I was asked to leave -- to be taken out of the Institution.

MR. MEURIN: I have got no further questions, sir.

MR. CARSCALLEN: No questions.

EXAMINATION BY THE COMMISSIONER:

Q Mr. David, you might help me. Was your visit on the 18th a regular visit?

A Yes, it was, sir.

Q And are your regular visits on a Wednesday?

A Yes, they are, sir. Every Wednesday. And sometimes I go out in the evenings if there's a concert or if there's a picnic. If I can I try to get out but that's extra.

Q Well, Mr. David I'm not trying to be clever but the calendar that I have indicates that the 18th is a

Thursday.

A No. I think the 17th is a Tuesday, is it not?

Q You may be correct. You may be correct. Now, in other words what time did you go out?

A I go out in the morning. I get out there any time between ten to nine and ten after nine consistently.

Q Now, I think you can be helpful. I believe you did state that the only really severe beatings that you had seen out there had been administered by the inmates rather than the guards?

A That's true.

Q And would you agree with me then that an inmate today has far more to fear from his other inmates than he has from the correctional staff?

A I think there's fear all around.

Q You do?

A Yes, I do, sir.

Q And yet you have never seen a severe beating administered by the guards?

A It's a psychological mistrust on both sides. There's a lot of good things going on on the part of the correctional officers. Like they have come down on their days off to my office to tell me that they have been working with a man. The inmates talk about certain individuals, certain correctional officers with a great deal of respect. They come down to my office immediately upon release and there's some sharing but this doesn't come out.

Q Yes. From that then Mr. David, and what you said previously,

would you not agree with me that an inmate has far more to fear as far as a beating is concerned from the inmates themselves than from a guard?

A Yes, yes.

THE COMMISSIONER: Anything arising out of that?

MRS. HETHERINGTON: Mr. David, I just have one question on re-direct, not arising out of that but from other questions asked by my learned friends. And I have only one question.. It's been dealt with possibly by implication but I would like to make it specific.

RE-EXAMINATION BY MRS. HETHERINGTON:

Q Mr. David, did you ever discuss with any representatives of a news media the alleged incident that occurred at the Calgary Correctional Institution on the 17th of July of this year?

A No.

MRS. HETHERINGTON: I have no further questions.

MR. PEACOCK: Thank you, Mr. David.

THE COMMISSIONER: Thank you, Mr. David.

(Witness retires).

MR. PEACOCK: Call Mr. Shabib, please.

ROBERT ALAN SHEBIB, having first been duly sworn, examined by Mr. Bourassa, testified as follows:

Q Now, Mr. Shebib, perhaps you could tell this Inquiry your position and your duties with the John Howard Society?

A I am executive secretary of the Calgary District Council. And my duties include the general direction of the

Calgary office and implementing policy as dictated by the Calgary Board of Directors.

Q And do you know a Jim David?

A Yes.

Q Is he an employee of yours?

A Yes.

Q And what were his responsibilities in July of '73?

A Mr. David, among other duties is responsible or was responsible for visiting the Calgary Correctional Institution to interview inmates for the purpose of pre-release planning.

Q All right. In July of '73, did you become aware of an incident that occurred at the Calgary Correctional Institute?

A Yes, I did. On July 23rd when I returned from vacation I was informed by Mr. David that an incident had occurred at the gaol, I believe the evening of July 17th. At that time I asked Mr. David to compile a written report on what he had heard from the inmates that he had interviewed.

Q Did you do anything else respecting your executive?

A Yes. I got in immediate touch with the Chairman of the Calgary Penal Reform Committee, Mr. Jerry Pulak, also past President of the Society.

Q Did you go to your executive?

A The executive were not available. This was the summer months. Our Board generally doesn't meet during the

summer and the executive were out of town.

Q All right. Did something happen on July 25th?

A Yes. As I understand it, Mr. David visited the Institution and had talked to Mr. Merriam and asked him whether he had relayed the information he had told him the week previously. And Mr. Merriam apparently replied that he had not, and Mr. David expressed his concern to Mr. Merriam. Following that Mr. David shared full details of what he had done with me and I again got in contact with our local Penal Reform Chairman to bring him up-to-date.

Q Perhaps you could advise the Commissioner of what the normal channels of communication are when an incident occurs?

A Well, we appreciate that our workers in the course of gaol interviewing are going to come across inmates who have concerns. I certainly found this in my two years as a visitor to the Bowden Institution. Most of the concerns are of a rather petty nature, complaints about the food, complaints about the gaol. And where possible, we advise our workers to advise the inmates to work through the existing gaol channels. If the complaint appears of a serious enough nature that it can't be handled at that level, we advise our workers to convey the information back to the executive secretary, myself.

Q What do you do with the information?

A I again try and work with senior administration at the gaol and share with them the information that we have.

Q Now, I understand you asked for a written report from Mr. David. Did you receive that?

A Yes, I believe July 26th I received a final copy.

Q Perhaps the Clerk could show Mr. Shebib Exhibit 55.

THE COMMISSIONER: Would you show him the last exhibit in order, Mr. MacDonnell.

Q MR. BOURASSA: Is that the report that you received from Mr. David?

A Yes, sir.

Q And what did you do with that report?

A I shared contents of it with Mr. Jerry Pulak, our Penal Reform Chairman. And on August 1st which I believe was a Wednesday, I visited the Warden at his office at the gaol and shared with him full details of what Mr. David had heard on his visit of July 18th.

Q Just for clarification, did you give him the report to read or did you read the report or --

A I paraphrased the key points in it for the Warden's benefit.

Q I see. What happened after that Mr. Shabib?

A I again met with our Penal Reform Chairman I believe the day after, and we decided that the incidents were of a serious enough nature to warrant some form of independent investigation. And the details of this request were subsequently released to the news media.

Q And did you seek the news media out?

A I was contacted by both CKXL and CBR and I had no need to seek them out. I would have if they hadn't have

contacted me.

Q I see.

THE COMMISSIONER: Do you know why they happened to contact you on this particular occasion, Mr. Shebib.

A When things happen in the corrections field it is quite typical for the news media to phone John Howard to see if they have an opinion or some knowledge of the event.

THE COMMISSIONER: I see. So what you are saying then is they already have the information?

A The information with respect to the incident?

THE COMMISSIONER: Yes.

A I would assume so, yes.

THE COMMISSIONER: They don't have a regular reporting basis to you, do they?

A No, just an ad hoc thing.

THE COMMISSIONER: One could assume they would know that?

A They must have known something. Otherwise --

THE COMMISSIONER: Could you tell that from the call?

A I would think this.

THE COMMISSIONER: Did you?

A Did I tell from the call that they had information?

THE COMMISSIONER: Yes.

A I assumed they did.

THE COMMISSIONER: You assumed that from the

call?

A Yes.

MR. BOURASSA: All right, Mr. Shabib.

Q I understand that you then went on the radio and made a request for an inquiry?

A Yes, sir.

Q Now, in your discussions with CKXL did you release any of the information contained in your report, in the report of Mr. David of July 26th, 1973?

A I only told CKXL that we had a report from one of our social workers and it was on the basis of this that we were calling for an independent investigation. At the time I told Mr. Murray Dale this, he asked if he could be privileged to share the details of the report. And I told him that that certainly couldn't be a decision I could make. It would have to go through the Board of Directors and no decision on that could be forthcoming until a decision had been made on whether an independent investigation was called for.

Q So at no time you released any of this information to Mr. Dale?

A No.

Q I understand that on the same date that you made this request for the inquiry there was a response from Mr. Jackson?

A Yes. On that day I think shortly after we made our call for the public inquiry, Mr. Jackson criticized the Society for conducting what he considered police-type

investigations.

Q Did you have further communications with Mr. Dale that day?

A Yes. Later that afternoon, I believe around 4:30 or five Mr. Dale and I were talking. And he shared with me a news comment that was proposed for telecast the following day, Friday, August 3rd I believe the date. At that time I told him that the news comment as proposed, I was not happy with and that I felt it was an unfair interpretation of what I had said regarding release of the details of the report that Mr. David had compiled.

Q Just for clarification Mr. Shebib, did Mr. Dale's proposed comments say that he might be privy to your report?

A Yes, I believe that was it.

Q I believe Mr. Commissioner that this is Exhibit 43 in these proceedings. Perhaps we could just get that ascertained. Mr. Shebib is that the proposed comment that Mr. Dale was going to make?

A Yes.

THE COMMISSIONER: May I see it.

Q MR. BOURASSA: And as far as you were concerned Mr. Shebib Mr. Dale was not going to be privy to that particular report?

A It was not a decision I could make.

Q I see. All right. Did something then happen on August the 8th?

A On August the 8th Mr. -- Mr. David and Mr. Farewell, our two gaol visitors visited the Institution and were

called to the Warden's office. As I understand it, the Warden at that time asked that Mr. David leave his Institution and Mr. David subsequently did. Mr. Farewell continued with his regular gaol visiting.

Q Mr. Shebib, I am just concerned, did that happen on the 8th of August or the 1st of August?

A Ah --

Q Do you recall specifically?

A I believe it was the -- I believe it was the 8th that they were asked to leave, yes.

Q Well, did something happen about a week later. Did you have another meeting with the Warden?

A Yes. Mr. Farewell and I visited the Warden to discuss the nature of his complaints re Mr. David.

Q Now, I am going to suggest to you Mr. Shebib that the date that you visited Warden Jackson was the 8th. I am going to ask you to give the Commission whatever specifics you heard with respect to the complaint against Mr. David.

A Mr. Jackson made no specific complaints but expressed a number of generalized concerns. I can't recall anything specific.

Q And as a result, I take it you agreed that --

A I agreed to remove Mr. David as gaol visitor I believe by the end of September.

Q Now, up to this time Mr. Shebib, did you release any information of the report of July the 26th to the press?

A No.

Q Have you released any of this information at any time?

A No.

Q Did you question Mr. David with respect to the press's comments with respect to his releasing it?

A Yes. I have talked to Mr. David in some detail and I am satisfied in my mind that he made no overtures to the press on this matter.

Q And have you received any other information with respect to the releasing of this particular report?

A I am sorry. Could I have that again.

Q Did Mr. Dale give you any information with respect to the involvement of Mr. David respecting this information?

A Yes. I have talked to Mr. Dale and he's assured me that his source of information was not Mr. Jim David.

MR. BOURASSA: I have no further questions, sir.

CROSS-EXAMINATION BY MR. PEACOCK:

Q Mr. Shebib, how long have you been with the John Howard Society?

A A little over four years.

Q And I think that we can all agree that in dealing with matters of prisons and the running of the prisons, that you are dealing on the whole with a potentially explosive situation.

A Yes.

Q And as a result, I think you will agree that in most cases restraint should be used?

A Restraint on behalf of --

Q In all cases in dealing with matters that arise in prison

operation, et cetera?

A Yes.

Q The reason that I asked that is this. You have indicated that I believe you and Mr. Pulak made a decision to demand a public inquiry into what had occurred on July 17th?

A Yes.

Q And as a result, the press was notified and you were contacted by CKXL and you advised CKXL without disclosing what you had found and quite properly so, that you wished a public inquiry called on the basis of the information you had.

A Yes.

Q Now, I am wondering if during this course of investigation you ever contacted the Attorney General's Department to discuss what steps they might take?

A No.

Q Were you aware that the Canadian Royal Mounted Police had been called in and had interviewed inmates and guards in connection with this incident?

A At the time we called for a public investigation, I don't believe so, although I wouldn't be absolutely sure of that.

Q Are you aware that the ombudsman has unrestricted communication receiving rights under the terms of the Ombudsman's Act so that prisoners may deliver uncensored mail and complaints to the ombudsman?

A Yes, I am.

Q And are you aware that the ombudsman's office will take complaints and make interviews and investigations themselves?

A I am aware they have the option to do so.

Q Before you called for a public inquiry did you make any inquiries with the ombudsman's office as to what steps were being taken through their office?

A As I recall, and I don't recall my source, I recall that the ombudsman had chosen not to get involved in this particular matter.

Q Was this before you called for the public inquiry or afterwards?

A I believe it was before.

Q When you discussed the matter with Warden Jackson, did you ask him what steps were being taken outside of the Institute to endeavour to ascertain what had happened on July 17th?

A I believe the extent of our conversation was merely to share with him what we had heard and we didn't comment on what steps we felt should be taken at that point.

Q Did you ask him what steps he was taking?

A I don't believe I did.

MR. PEACOCK:

Those are all the questions

I have, thank you.

THE COMMISSIONER:

Mr. Meurin.

CROSS-EXAMINATION BY MR. MEURIN:

Q Did I hear you correct in that you weren't interested in what steps Jackson was taking about this July 17th incident?

A No, you didn't hear me correctly.

Q What was your --

A I didn't inquire as to what steps, as I recall. I was interested.

Q And I suppose it's possible if excessive force was being used, he could have disciplined whoever was responsible for it?

A I would assume, yes.

Q And you didn't wait to see if he was going to do that before you called for the public inquiry?

A Well, I think as I recall, Mr. Jackson had data coming in from all over at that time and was in the process of making his own decision and was in no position to share a conclusion with me at that point.

Q Notwithstanding that you called for the public inquiry?

A In consultation with the Penal Reform Chairman, yes. We felt that the matter was of a serious enough nature to warrant something on the outside.

Q In other words, you were going to call for an inquiry regardless of whether somebody had to be removed from the Institution because he was a, I am speaking of a correctional officer or what have you, because he was using excessive force. You felt that a public

inquiry would be better?

A Yes. We -- we used the term independent investigation. We weren't calling specifically for a public inquiry.

Q Are you saying that you didn't have confidence in the Warden's investigation?

A No.

Q You didn't?

A I didn't say that I didn't have confidence in the Warden.

Q Well, did you?

A No. I'm sorry. Could you try that again.

Q At that time, did you have confidence in the Warden's investigation?

A I don't think it's a question of confidence or not. It's a question of what would be a more appropriate body to investigate.

THE COMMISSIONER: Mr. Shebib, can you answer counsel's question.

A I had confidence that Mr. Jackson would conduct a fair internal investigation but I didn't feel that that was what was called for.

Q MR. MEURIN: What were the terms of reference upon which Jim David was originally sent to work at the Institution?

A The main role of our Institutional visitors is to counsel men before they are released to deal with any personal concerns, employment, any problems that they might anticipate when they are released after their term of

imprisonment.

Q It's a rehabilitative type of thing, I take it?

A Yes.

Q Primarily?

A Yes.

Q The concern that you expressed to Jackson on your initial meeting, was it more in the nature of a concern over excessive use of force by the guards or was it concern that some individuals had been unfairly singled out?

A At that point, my role in visiting Mr. Jackson was merely to share that we had certain data. We had certain information that we felt he should be privileged to, that he should be aware of. We reached no conclusions as to whether force was used or any causation of the incident. We merely wanted to share what we had with the Warden so that he could do what he wished with it.

Q Well, sir, I have read that four-page report and it seems to me there are two aspects of it. One, that some individuals claimed they had been unfairly singled out, and secondly some of them alleged they had been beaten. Now, are you telling me that your prime concern was one, the other or both?

A We were concerned that an incident had occurred. We were of course concerned that perhaps brutality had been used. Does that answer your question.

Q I'm not certain, sir. Sir, I take it that Warden Jackson

has played a fairly active part in your Society?

A Yes. He's a member of our Board. I have known him for several years myself. We have worked fairly close together on a number of projects including recently a prison arts project. We have sponsored gaol picnics in cooperation with the Warden, and in my opinion he's worked very much in community corrections as well as from his Institutional post.

Q Have you known of him to deal unfairly with any inmate?

A No.

Q Have you known of him to attempt to cover up?

A No.

Q Anywrong doing by any part of his staff, or not correct it?

A No.

Q Sir, the report that you had was basically from one side of, or basically one side of the story, is that a fair summary?

A It was a summary of the inmates' comments, yes, hmm hmm.

Q In other words, you had not contacted the correctional officers involved in this thing?

A No, that's not an area we would want to get involved in.

Q Sir, did you ever take into account the fact that getting only one side of the story in an incident like this might be a little one-sided?

A Certainly. We weren't conducting an investigation. We were only in a position to hear one side. That's why

we reached no conclusions.

Q You reached the conclusion to call for an inquiry though?

A Conclusions re the incident.

THE COMMISSIONER: Mr. Stilwell.

CROSS-EXAMINATION BY MR. STILWELL:

Q I have one question that I would like to ask Mr. Shebib if I may. Are you aware that the supervisor of corrections, Mr. Osmond had set up an independent inquiry consisting of the Warden of the Peace River Institution, the Deputy Warden from Lethbridge and Mr. Alan Spielman, a member of the Provincial Executive of the Civil Service Association? And that that inquiry was aborted by call for a public inquiry which you indirectly initiated?

A This is the first I have heard that.

THE COMMISSIONER: Mrs. Hetherington.

MRS. HETHERINGTON: No questions.

MR. PEACOCK: Thank you, Mr. Shebib.

THE COMMISSIONER: One moment.

MR. PEACOCK: I am sorry, Mr. Commissioner.
If you have a question.

THE COMMISSIONER: You might permit me one or two, Mr. Peacock.

MR. PEACOCK: Certainly.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Shebib, you were aware that this incident had originated in what is known as the West Wing?

A Yes.

Q Were you aware how many men were in the West Wing on

that occasion?

A No.

Q That would have been easily ascertainable?

A Yes.

Q And were you aware or have you any information as to how long this alleged disturbance had continued?

A My only information was the report from Mr. David and as I understood it from the report, it began somewhere around ten o'clock and lasted for gee, I don't remember, a couple of hours or an hour afterwards but some of the --

Q Yes.

A Sorry.

Q Are you familiar with the West Wing?

A No. I have been through the West Wing. I am not a regular visitor to it.

Q Well, I don't expect you were. Now, perhaps you can help me just a little. What was your prime concern, I mean to ask for a public inquiry and certainly I am not questioning your motivation for an instance or Mr. Pulak's, but there must have been something in this report which led you to believe that a public inquiry was necessary. Now, there are two points as I see them. One was the fact that perhaps persons who were not ring leaders had been singled out and two, those who were singled out had been beaten. Now, which was it? Was it both? Could you help me?

A I think our reasons -- I know our reasons for the public inquiry were because of the serious nature of it. I think it was --

Q What was serious? Tell me that, in your opinion.

A In my opinion --

Q I'm not being facetious.

A What was serious was that a number of independent inmates had -- had made reference to an alleged brutality the night before.

Q Did you know the specifics of this brutality?

A Did I personally know it?

Q Hmm hmm.

A From the report of Mr. Jim David, was my source of information.

Q And do you recall what the specifics of this brutality were that led you to ask for a public inquiry?

A It would be the specifics of the report.

Q Well, would you tell me. Surely if they were serious enough you would remember them now.

A The key issue was that inmates were accusing guards of beating them up, dragging them out of beds, handcuffing them, using tear gas.

Q And you consider that brutality?

A I consider that a serious incident.

Q Do you consider that brutality?

A If it occurred, yes, without provocation.

THE COMMISSIONER:

That's all.

MR. PEACOCK: Thank you, Mr. Shebib.
(Witness retires).

MR. PEACOCK: I propose to call Murray Dale.
It's now noon.

THE COMMISSIONER: We can't disappoint Mr. Dale.

MR. PEACOCK: Let's call him now. I only
have about two questions, sir.

MURRAY DALE, having first been
duly sworn, examined by Mr. Carscallen, testified as follows:

Q Mr. Dale, I understand that you are an employee of
Radio Station CKXL, is that correct?

A That is correct.

Q And what position do you hold with CKXL?

A I am News Director of CKXL and CHFM.

Q Very briefly Mr. Dale, what does that position entail?

A It's my responsibility to look after all the news that
is assimilated on both radio stations.

Q I see. And does that position involve your responsibility
for certain so-called news comments that go over the air
on CKXL?

A Yes. It is our policy that only the news director shall
write and broadcast editorials as such.

Q So those comments are your exclusive responsibility,
are they?

A Yes.

Q Do you receive assistance from within the station in the
preparation of those?

A Perhaps to the extent of formulating ideas, but I write

them myself.

Q Now, in the series of news comments between August 1st and August 23rd, you made reference to happenings at the Spy Hill Gaol, is that correct?

A That's right.

Q In the preparation of those comments, sir did you receive information or in any way communicate with a gentleman by the name of Jim David?

A No. I do want to take this opportunity to put aside any suspicion if you will, that that was the source of my information.

Q Fine. Have you ever communicated with him prior to today?

A No. I have never met the gentleman.

MR. CARSCALLEN. Thank you, Mr. Dale. I have no further questions. Please answer my learned friends.

CROSS-EXAMINATION BY MR. PEACOCK:

Q Mr. Dale, I think I only have one question. Prior to your preparing your editorial, your editorials relating to incidents that occurred at the Calgary Correctional Institute in July, did you ever receive specific information as to what happened out there from anyone connected with the John Howard Society?

A No.

MR. PEACOCK: Fine. That's all I have.
Thank you.

THE COMMISSIONER: Mr. Stilwell.

MR. STILWELL: No questions.

THE COMMISSIONER:

Mr. Meurin.

MR. MEURIN:

I have several, sir.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, I am showing you a news comment dated Wednesday, October 1 which appears to be from your office. Could you examine that and tell me whether that is one of your news broadcasts?

A It is.

Q Sir, the second paragraph indicates "The night of July 16th, twenty minutes to ten the power was turned off in the West Wing, twenty minutes earlier than usual. The radio was also turned off, thirty-five minutes earlier than usual. Guards rejected complaints by the prisoners who started a minor disturbance". And it goes on. Now, can you tell me where you got your information that anything occurred at the Calgary Correctional Institute on the 16th of July?

A My information came via two telephone calls and by letter.

Q Okay. And I am specifically concerned about the 16th of July, because any information or any evidence that has been before this Inquiry with respect to an incident in the West Wing has been on the 17th of July. Now, perhaps you could explain to me what happened on the 16th or why the discrepancy?

THE COMMISSIONER:

Well, perhaps could he do this. I take it that your information Mr. Dale was received after the incident?

A Yes, it was.

THE COMMISSIONER: It would have to be,
wouldn't it?

A Yes. The date was wrong in the first information
that I received.

MR. MEURIN: Yes. I take it then that
you would question the reliability of your source of
information?

A In all other respects the information has been proven
to be most accurate, according to the testimony before
this Inquiry.

Q Well, I think when we have the report of the Commission
that is the time to decide that. But you will agree
insofar as the date is concerned, it is inaccurate.

A I do

MR. MEURIN: Might that be an exhibit, sir.

THE COMMISSIONER: The next exhibit, Mr. Clerk.

THE CLERK: 56.

EXHIBIT 56 - REPORT OF
MURRAY DALE. OCTOBER 1, 1973.

THE COMMISSIONER: What number is it?

MR. PEACOCK: 56.

Q MR. MEURIN: Sir, there's also been a
previous exhibit of yours, a new comment of yours of
August 3rd I believe, Exhibit 43, in which you made
reference to the John Howard Society's report. You say
"I have not been privy to that four-page report but I
might be, if Warden Jackson and the Provincial Prison
authorities do not call for a full investigation following

the internal inquiry". Could I ask you why you say you might be privy to that report?

A I learned that the John Howard Socceity did have a report on -- at the same time as they publicly called for an independent inquiry. A discussion with Mr. Shebib was that I could not see the report without the approval of the Board of the Society. But in the conversation, I gathered that if an investigation was not forthcoming, an inquiry was not forthcoming, and if the Board of Directors of the John Howard Society gave their approval, I might at some time in the future see the report.

Q Sir, I don't quite read that statement that way but it's a matter of interpretation. The next news comment is the 10th of August. Let's back up for a minute. You claim at this point that your sources of information have been reliable except with respect to the --

THE COMMISSIONER: Date.

MR. MEURIN: -- the date, the 16th versus the 17th?

A Yes, I do.

Q Now, in your comment on the 10th of August which I believe has been entered as Exhibit 44.

THE CLERK: That's correct.

MR. MEURIN: You say in the last paragraph "While attempting to convince Provincial authorities that a complete and independent inquiry is warranted, might I remind them that two prison guards were beaten up by several prisoners at the Foothills Hospital on

July 16th. Would it be coincident that guards beat up several prisoners on July 17th?" Now, sir could you tell me when prison guards, what information you have with respect to prison guards being beaten up on the 16th of July at the Foothills Hospital?

A The testimony before this Inquiry has -- has shown that the incident at the Foothills Hospital actually did take place on July 17th. However, I am not aware if the police report, the City Police Report has been entered as an exhibit, but either one of two things happened. The City Police Report had the wrong date on it or it was placed on the wrong file and I think Inspector Roberts could elaborate on that.

Q Your information was that it was prison guards that were beaten?

A When I contacted the Police Records Department regarding the incident, they said via telephone "The essence of the report is this. Two City policeman were injured, a prisoner was bitten by a dog, two prisoners were charged with assaulting officers". They did indicate to me that a guard or a City policeman had in fact been assaulted or beaten.

Q But you don't say in your news comment that it might have been an officer. You say prison guard only, don't you?

A Yes.

MR. MEURIN:

No further questions.

MR. CARSCALLEN: Excuse me, sir. One or two questions arising out of that cross-examination.

RE-EXAMINATION BY MR. CARSCALLEN:

Q Sir, were the sources of your information inmates at the time of these alleged incidents, that is during July, 1973?

A One source of information identified himself as an ex-inmate. One identified himself as an inmate and another identified himself as an inmate.

Q What do you mean by ex-inmate, that is an inmate at the time of these events?

A If not -- if not at the time, he was -- had been released quite recently from the time I spoke to him so it would be -- I can't say for sure whether he was in Spy Hill at the time of the occurrence on July 17th.

Q And sir, were these informers anonymous to you or were you aware of their names?

A I -- I am aware of their names.

Q So on that basis, you presumed or you accepted their statements as being rather reliable, do you?

A Perhaps it would help if I pointed out I received the first call, the first information on the July 17th incident at approximately July 19th or 20th. The story was detailed, yet in places it was vague. And I chose not to do anything with it but rather to try and substantiate it. That --

Q Let me interrupt here for a moment. You first received

your information as early as July 19th?

A I can't recall the exact date. It was -- it was either the 19th or the 20th.

Q But you made no public comment concerning it until August 3rd, is that correct?

A No. I -- I substantiated what had happened to my satisfaction on July the 31st. And the first editorial I wrote was on the air on the 1st of August.

Q I see. Now, sir in your August 3rd news comment which has been referred to, you make reference to a report of the John Howard Society. Now, where did you get that information, that is the information that the John Howard Society was possessed of such a report?

A John Howard Society issued a news release, which amounted to a news release. It was being prepared. I happened to call the office and the news release was being prepared at that time and it was -- the purpose of the news release was to call for a public inquiry in light of a report that had been handed in by an employee of the Society. And so it was issued as a news release.

MR. CARSCALLEN:

I see, thank you, sir.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Dale in the policy of this Inquiry we are not to ask for the names of inmates who have given information for the very obvious reason that we don't want them subjected to retaliatory measures, severe ones which would be inflicted by other inmates. And for that reason,

it is not my intention to ask you to name persons who gave you the information. But you would agree with me would you Mr. Dale, that their point of view might be somewhat slanted?

A Yes, I agree with you and this is why it took me 11 days to try to find additional information to corroborate

Q Yes. Did you attempt to discuss this matter with any of the correctional staff who were involved in the incident in the West Wing?

A No. I went to -- directly to Warden Jackson, yes I spoke with him several times on the telephone and later in early August I went out and had a meeting with him in his office.

THE COMMISSIONER: I see. Any questions arising from that.

MR. PEACOCK: No questions.

THE COMMISSIONER: Thank you very much, Mr. Dale.
(Witness retires).

MR. PEACOCK: That sir is the evidence for today. Unless anyone has any further evidence to call I propose to catch a 12:30 plane.

THE COMMISSIONER: And what date?

MR. PEACOCK: We will reconvene, I believe sir that Monday the 12th is a holiday.

THE COMMISSIONER: Has that been decided?

MR. PEACOCK: I think we could leave it on this basis. We will adjourn to either Monday the

12th or Tuesday the 13th.

THE COMMISSIONER:

The first working day in

the week of the 12th.

MR. PEACOCK:

That's fine. Thank you, sir.

(Inquiry adjourned).
